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THE FINANCES OF PORTO RICO.

THE financial experience of Porto Rico under the American flag may be conveniently divided into three distinct periods. The first — characterized by the opportunism of a provisional, as distinct from a permanent, government — extended from the landing of United States troops on the island on July 25, 1898, through the course of military government. The second period comprised the interval from the establishment of civil government on May 1, 1900, to the enactment by the insular legislature of a comprehensive system of insular finance on January 31, 1901. The dominant note of this second stage was administrative betterment. The third period, extending from February 1, 1901, to the present time, includes the installation and operation of the new revenue system and the passing of Porto Rico from a financially insecure dependency to a solvent, self-supporting community. The conspicuous date in this last period is July 4, 1901, when the insular legislature, convened in extra session, declared by joint resolution that the system of revenue then in full operation was adequate to meet the necessities of the insular government. It was in accordance with this resolution that an executive proclamation, on July 25, 1901, established free-trade relations between Porto Rico and the United States. Through the establishment of an equitable and elastic revenue system, the finances of the island were thus placed upon a secure foundation.

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I.

When the American army of occupation landed in Porto Rico on July 25, 1898, it found in operation a system of public economy embodying in all essentials the principles of Spanish colonial policy. The annual expenditures of the insular government aggregated four million pesos, of which a large part went to support the colonial service, the ecclesiastical institutions, and the military and naval establishments of the mother country. The revenues of the island were derived in the main from indirect taxes upon necessary consumption, levied in the form of customs duties for the insular government and *consumo* taxes, or *octrois*, for the municipal districts. Two forms of direct taxation were in force: (1) the industry and commerce tax, a special license or privilege tax on all industrial and professional occupations, graded according to the class of business transacted and the importance of the municipal district wherein it was conducted; and (2) the territorial tax, a percentage tax upon the net income derived from agricultural and urban property. At the time of the American occupation these direct taxes were collected through the instrumentality of the Banco Español de Puerto Rico. Stamp taxes were imposed upon conveyances of property, upon notarial documents and upon instruments of indebtedness.

The secure establishment of military government was promptly followed by important fiscal changes, for the most part negative in character and designed to effect quick harmony with the new political conditions. Insular contributions to the support of church and state were suspended. Customs duties on necessary food-stuffs and supplies were removed. Public lotteries were discontinued and *consumo* taxes on articles of prime consumption were abolished. The industry and commerce tax and the territorial tax were retained; but the stamp taxes on property transfers and on legal instruments were removed, under the mistaken impression, it is said, that *derechos reales* were a manner of "royal dues" inconsistent with American political principles. The essential revenues of the

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island were received and disbursed by an officer of the United States army, acting as collector of customs for Porto Rico, until by executive order a system of accounting modeled after that of the United States was established and put into operation on July 1, 1899. This same order created the offices of insular treasurer and auditor, with duties confined in the main to the custody and disbursement of public funds and to the examination and audit of public accounts. The real financial administration of the island, including the collection of all insular taxes and dues, was vested successively in a secretary of finance, in a department of finance and in a civil secretary, each acting under the direct control of the military governor.

The military government suffered no serious financial embarrassment during the first year of its existence, despite the signal failure to supply new sources of revenue for the old forms abolished. The American occupation, *ipso facto*, cut off large insular expenditures, and thereafter important public services continued to be performed without cost to the island by army officers or were made chargeable to military funds. With reviving commerce, customs duties, even under the modified tariff, yielded large returns. Thus, beginning with a perfectly empty chest, the insular balance increased steadily until on August 31, 1899, it had reached the handsome sum of $578,105.27. The condition of the municipal treasuries was less satisfactory, but there also retrenchment in expenditure had accompanied military administration, and the situation was at least not embarrassing.

The real financial difficulties of the military government may be said to have been created by the catastrophic hurricane which devastated the island on August 8, 1899. Large extraordinary expenditures were thereby required for public relief, and insular revenues declined sharply in consequence of the economic prostration of the island and the impairment of the taxpaying capacity of its inhabitants. Economic revival was delayed by uncertainty as to the nature of trade relations with the United States, by the continued distribution of emergency rations and the supply of relief work, and by the grant of stay

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in mortgage foreclosures. In the surge of humanitarian impulse, the necessity of insular self-support was obscured and the popular assumption grew that Porto Rico was to remain a financial appanage of the United States. Month after month witnessed increasing expenditures, declining revenues and more and more alarming deficits in the insular treasury.

Moreover, not only was the revenue of the island insufficient in amount, but the whole system under which it was secured was revealed to be gravely defective. This became more and more obvious with respect to the forms of direct taxation in use. The industry and commerce tax, levied for both insular and municipal purposes, imposed, as has been noted, a specific charge upon every industrialist, varying with the nature of his occupation and the locality wherein it was carried on. The financial and commercial interests were almost exclusively in the hands of Spanish merchants, and upon these classes the rates of taxation were relatively low. The small retail and manufacturing activities were generally in the hands of Porto Ricans, and upon these the taxes were comparatively high. Whatever defects existed in the tax itself were greatly enhanced by crude administration. The tax rolls were prepared in each municipal district by a local committee, appointed by the municipal council and composed of members of the council and of other local taxpayers. When it is borne in mind that the municipal authorities were either Spanish or immediately subject to Spanish influences, it is easy to understand the extent to which, in specific instances, political and personal considerations intervened. The system of land taxation in force at the time of the American occupation was a percentage tax on the net income derived from agricultural occupations and from the rentals of urban property. Although open to serious defects and characteristically perverted by inefficient administration, the system embodied important elements of equitable and scientific taxation. On July 1, 1899, this system was, however, succeeded by a new scheme of land taxation, devised by Dr. Cayetano Coll y Toste, civil secretary of the military government. A radical distinction was therein made

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between agricultural and urban property. The principle adopted with respect to agricultural land was a crude, primitive device that has been discarded by every civilized country on its emergence from financial infancy — namely, a classification of lands according to use and quality and the imposition of specific taxes thereon. The percentage tax on the net rental value of urban property was retained, but unfortunate innovations were added, such as the provisions that new houses should be exempt from all taxation for two years after construction; that unimproved city property, even when held in a congested urban centre for speculative purposes, should be taxed as uncultivated agricultural land; and that non-residents should be subject to a surcharge of fifty per cent — a provision also adopted with respect to agricultural property. The new measure could fairly be described as possessing all the defects of the old territorial tax and none of its virtues.

From the repeal of the *derechos reales* until November–December, 1899, no insular excise taxes were collected in Porto Rico. On the latter date small taxes were imposed on alcoholic liquors, matches, oleomargarine and playing cards, the proceeds for the most part to accrue to the municipal districts, in lieu of the abolished *consumo* taxes on food necessities. But these taxes were never in really successful operation. Their administration and enforcement were entrusted to an overburdened department, and the results were financial failure and popular contempt for law.

Under circumstances such as have been described above, it was inevitable that the problem of financial reform should engage the serious attention of the military government, notably of Brigadier-General George W. Davis, who filled with distinguished success the office of military governor from May 9, 1899, until the establishment of civil government. In accordance with the recommendation of General Davis that expert service should be secured for this work, the secretary of war honored the present writer with the appointment on February 26, 1900, as special commissioner to revise the laws relating to taxation in Porto Rico. It was contemplated that a new fiscal

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system should be devised and put into operation by military order with the beginning of the fiscal year on July 1, 1900.

The course of events, however, resulted otherwise. While detailed study was being made of the financial experience and economic resources of Porto Rico, as a necessary preliminary to an intelligent revision or reconstruction of the existing financial system, congressional legislation with respect to Porto Rico broadened from the tariff act originally anticipated into a comprehensive organic act establishing civil government in the island. It thus became clear that the work of the special commissioner, instead of resulting in a new fiscal system to be established by a general order of the military government, must be in the nature of a report or recommendation to the civil government for enactment by the insular legislature. The official existence of the special commission was, however, brought to an unexpected termination by the presidential appointment of the commissioner as treasurer of Porto Rico, under the provisions of the civil-government act, and by his consequent relinquishment of the office of special commissioner and assumption of the office of treasurer of Porto Rico upon the organization of civil government on May 1, 1900.

In the ordinary course of events Congress would probably have applied the body of internal revenue laws of the United States, or a fixed percentage of the rates of taxation prevailing thereunder, to Porto Rico in the act establishing civil government. One of the earliest and most urgent recommendations of the special commissioner was that this course should not be pursued. The system of internal revenue taxation in the United States, it was represented, is the result of gradual development and is adapted to the conditions prevailing in an economically advanced community. To extend this system in any degree *en bloc* to Porto Rico, where social and economic conditions are radically different, would be a financial error and an economic embarrassment. Excise taxation should play an important part in the revenue system of Porto Rico, but it should be of a kind adapted to local conditions and to local needs. These views were adopted by General Davis, were

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transmitted to the secretary of war and were instrumental in securing the insertion in the civil-government act of the provision that the internal revenue laws of the United States should not be extended to Porto Rico, thus leaving the way clear for a system of insular excise taxes.

II.

In the minds of the sagacious and far-sighted framers of the act of Congress establishing civil government in Porto Rico, the financial problems of the island were distinctly present. The inadequacy of existing revenues was recognized, and the organic act was by its very title "an act temporarily to provide revenue." With a generosity unique in the annals of our political history, and typical of the future attitude of the United States to Porto Rico, not only was the island relieved of all contribution to the federal government, but extraordinary sources of revenue were placed at the disposal of the insular treasury to meet the temporary emergency. The island was entirely exempted from the internal revenue laws of the United States, thus leaving the way clear for insular excise taxation. The tariff on trade between Porto Rico and the United States was reduced to fifteen per cent of the Dingley rates, and the free list as it then existed was left intact. But, more remarkable, customs collections on all imports into Porto Rico and on all imports into the United States from Porto Rico — distinctly federal revenues — were appropriated to the insular treasury; this in addition to the appropriation, by special act of Congress, of the entire fund of customs duties — more than two million dollars — collected in the United States upon exports from Porto Rico from the time of the American occupation of the island to the establishment of civil government, to be held as a special fund subject to allotment by the President of the United States for the use and benefit of the people of Porto Rico.

Yet the financial outlook of the newly organized civil government was not altogether encouraging. The closing months of the military administration had been fraught with financial

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difficulties and anxieties, and this condition largely continued. The need of increased expenditures was urgent, while existing sources of revenue were rigid in form but fluctuating and uncertain in yield. Many petitions for the remission of taxes were pending, more were pouring in, and disinclination to participate in the support of the island was universal. The tax collection service was demoralized, and fraud and irregularities were not uncommon. It was impossible to forget that important insular revenues provided by the organic act were temporary in character and that the economic future of Porto Rico had been defined by congressional legislation as in the direction of an insular system of finance and of free commercial intercourse with the United States — to be attained by March 1, 1902, or as much earlier as might be practicable. Worst of all, the civil government was without the free amendatory power of the military government. It was easy for "general orders" of one day to modify, supplement or repeal the mandates of the preceding day. But on May 1, 1900, the entire body of existing financial legislation was crystallized and thereafter could be changed only by legislative enactment.

In the absence of legislative power to correct errors or supply gaps in financial matters during the considerable interval before the insular legislature could be elected and organized, the civil government, from the outset, directed strenuous efforts towards administrative betterment. The prime occasion for this existed in the office of the treasurer. Matters relating to the custody and disbursement of funds presented no serious difficulties; for an admirable system of accounting had been introduced under the military government, and this was continued, with unchanged duties and *personnel*, by the appointment of Mr. John R. Garrison as auditor under the civil government. Similarly, the insular government was relieved after May 1, 1900, of the administration of the customs service in Porto Rico, this being assumed by the federal government. But the civil secretary, in whom had centered under the military government the real financial administration of the island, was discontinued on April 30, 1900, and the financial activities

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of the office, together with the duties performed by the treasurer of the military government, were transferred to the new treasurer. Moreover, the treasurer under the civil administration became peculiarly responsible for the financial reform of the island. The incumbent of the office had, as special commissioner, been originally charged with this task; and upon the organization of the executive council — the upper branch of the insular legislature — he was designated chairman of the committee on finance and appropriations.

A departmental reorganization was effected, almost concurrently with the introduction of civil government, by the creation in the office of the treasurer of the following five bureaus, with a corresponding distribution of duties, responsibilities, *personnel* and records: (1) bureau of accounts, (2) bureau of municipal affairs, (3) bureau of internal revenue, (4) bureau of internal revenue agents, (5) bureau of tax law revision. The bureau of accounts assumed all duties relating to the receipt, custody and disbursement of public funds, and formed the administrative centre of the department. The bureau of municipal affairs exercised the central administrative control of local finances before vested in the civil secretary. The bureau of internal revenue was charged with the administration of the internal revenue system of the island. The bureau of internal revenue agents was established and equipped as a supervising and inspecting field force. The bureau of tax law revision undertook to continue the work, originally assigned to the special commissioner, of revising the laws relating to taxation in Porto Rico. A chief clerk was placed in charge of each bureau and a deputy treasurer was appointed, with the sanction of the governor, for the exercise of the duties of the treasurer, in the event of the latter's absence or disability.

A financial problem with which the new civil administration immediately found itself confronted was the preparation and adoption of an insular budget for the fiscal year beginning July 1, 1900. It was patent that the insular legislature could not by any possibility be brought into existence prior to that time. Recourse was accordingly had to a provision of

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the military order, issued by General Davis on the eve of the introduction of civil rule to facilitate the transition, in accordance with which the civil governor was held to possess the authority, with the concurrence of the executive council, to amend the insular budget of 1899–1900 and to continue it in force as so amended, until changed in pursuance of law, as the budget for the fiscal year of 1900–1901. A careful appropriation bill was prepared and submitted to the newly organized executive council, and, having received the unanimous concurrence of that body, it was promulgated by Governor Allen on June 28, 1900, as the insular budget for the fiscal year beginning July 1, 1900.

In the preparation of the budget, it was recognized that there could be no abrupt departure from certain policies inaugurated during the military government and in force on May 1, 1900. Public education had to be extended, road construction had to be continued, public order had to be maintained and insular obligations had to be met. These needs prevented any essential reduction in the largest insular appropriations, and to this extent precluded that nice adjustment of estimated expenditures to receipts which sound budgetary principles demand. In the absence of legislative power, no modification could be made of existing sources of revenue; in face of established policies, no immediate reduction could be made in important items of expenditure. Accordingly, $500,000 was assigned to education, as compared with $400,000 in the budget of the preceding year. The board of public works received $479,974, of which $250,000 was for "extraordinary expenses," in connection with contracts made by the military government for insular roads then unfinished. The insular police required $203,850. For the settlement of claims against the extinct Provincial Deputation $50,000 was appropriated; and $100,000 was put aside for "miscellaneous expenditures subject to the approval of the governor," to meet the then unforeseen contingencies which it was absolutely certain would arise in the course of succeeding months. The aggregate amount appropriated was $1,984,645.31.

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The insular treasury then proceeded to strain every nerve to meet the demands of the new budget, by the only means then in its power — the efficient and economical administration of existing revenue laws. The large unexpended balance of the "two million customs refund" and the segregated collections on imports from Porto Rico into the United States relieved the situation of any fear of critical embarrassment. On the other hand, it at once became a definite financial policy to regard these moneys as extraordinary funds, available for permanent improvements and for capital expenditures, but not to be employed, except in emergency, for ordinary expenses of goverment.

With respect to the most important source of revenue, customs duties, no opportunity for betterment presented itself. Schedules and rates were fixed by congressional legislation, the service was entirely in the hands of the federal authorities, and the insular treasury simply received the net proceeds. But with respect to other insular receipts — the so-called internal revenues of Porto Rico — very different conditions existed. Inherent changes could be made only by the insular legislature; but, on the other hand, there was a large margin for administrative improvement. The economic recovery of the island was marked enough to permit a firm, but intelligent, enforcement of the relatively light property tax laws then in force, and it was patent that an essential preparation for a new revenue system must be respect for at least the validity of the old.

Attention was early directed to the improvement of the *personnel* in all branches of the revenue service. Unnecessary and incompetent employees were discharged, and the inadequate compensation of those remaining was adjusted to a reasonable standard. Certain general principles were adopted and thenceforth applied in the conduct of the service. These were: appointment regardless of political or personal consideration, undisturbed tenure during efficient performance of duties, promotion from junior to senior positions, gradual increase of compensation within budgetary limits, and complete responsibility

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of chief officers for the organization and activity of their respective bureaus or offices. It was made perfectly clear that so long as a revenue official performed his duties properly, nothing could remove him from office or reduce his certainty of advancement, and that, on the other hand, no influence could be employed to retain an inefficient public employee in position.

An embarrassing heritage from the military government claimed early attention — an accumulation of some eleven thousand petitions for the remission of current and delinquent taxes, aggravated by a continuing influx of additional petitions. Designed originally to relieve acute distress incident to the hurricane, the remission of taxes had come to be regarded as a form of public indemnity or insurance, rather than as an exemption because of complete disability. The collection of insular taxes on property was in consequence practically suspended. An attempt to press a delinquent taxpayer ordinarily resulted in a petition for the remission of the tax and, until the petition was disposed of, further proceedings were, under existing regulations, stayed. In passing upon such petitions, the military government had been reduced to the necessity of accepting the perfunctory or colored recommendations of local bodies and to the adoption of an arbitrary rule of remission. Thus it became the regular practice, in the event of a favorable report, to remit the entire tax, if less than ten dollars in amount, and to remit one-half of the tax, if a larger amount was involved.

A favorable opinion of the attorney general of the United States having removed all doubt as to the ample prerogative of the civil governor in this respect, the then pending petitions were classified according to districts and lists of the petitions were sent to the insular revenue officials of the respective districts for certified report as to the ability or inability of the petitioners to pay taxes at the time of certification without affliction or distress. This action was based on the definite policy that insular taxes constitute a primary obligation, exemption from which could be granted, not because of loss or injury suffered in the past, but only for complete present

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disability. If the revenue official reported that the petitioner was unable to pay the tax in question at that time without grave economic distress, the petition was transmitted with a favorable endorsement to the governor of Porto Rico and, upon executive approval, the remission was granted. In the event of a contrary report by the revenue official, a corresponding negative procedure was pursued.

Similar steps were taken to reduce the continuing flood of remission petitions. An administrative regulation of the military government, prohibiting the collection of taxes whenever remission had been sought, was revoked; and for it was substituted the standing instruction to revenue officials, that under ordinary circumstances insular taxes then due or in arrears were to be collected. A uniform and persistent application of the procedure thus outlined operated with entire success. On March 6, 1901, the last of 10,897 pending petitions was disposed of, and thereafter petitions trickled in slowly and inappreciably. It can hardly be supposed that every case of hardship or injustice was avoided; but, on the other hand, there can be no doubt that the course adopted was a far closer approximation to equity than the perfunctory method before employed. Certainly the essential result was attained — namely, that there should be created at the very outset of civil government an appreciation by the people of the fundamental principle of a sound public economy, that lawfully imposed taxes must be paid by all able to pay them and that remission is an extraordinary relief, to be granted only under exceptional circumstances.

The resumption of internal revenue collections and the heightened activity of revenue officials was not, however, accompanied, it should be clearly understood, by harsh or unintelligent enforcement. The earliest instruction issued to every revenue official in the island as an imperative direction — any single violation of which, without clearly mitigating circumstances, was equivalent to immediate dismissal — was that no insular taxes of any kind should be collected by compulsory procedure in any case where such action would result in the

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affliction or distress of the delinquent. The rigorous severity of the Spanish system of attachment and sale of property for delinquent taxes was relieved by the direction that such steps might be taken only after the written consent of the treasurer had been secured in each specific case; and this consent was given only in rare instances, in which conclusive evidence existed that the delinquency was due to willful disinclination, rather than to real inability. There seems full warrant for the deliberate statement that, despite a phenomenal increase in internal revenue collections during the first nine months of civil government, the real burden of such taxation upon the life of the island was reduced in a marked degree. Careful observation — indeed, critical search — failed to disclose a single instance in which grave economic injury was inflicted by the collection of insular taxes. The extent to which this practice of leniency became a definite financial policy is indicated by the fact that from the establishment of civil government on May 1, 1900, during the entire administration of the writer as treasurer of Porto Rico — and probably up to the present time — there has not been a single compulsory sale of property for delinquent insular taxes in Porto Rico.

The collection of insular taxes having been thus resumed, care was then taken that funds so collected should reach their proper destination — the insular treasury. To one accustomed to American financial administration, the most remarkable feature of the internal revenue system of Porto Rico prior to the establishment of civil government was the entire absence of any effective check upon tax collectors. With respect to such revenue officials, the insular treasury was in a position little better than that of receiving what was given to it and being thankful. The condition of affairs prevailing on May 1, 1900, is best indicated by the fact that the first unmistakable demand for detailed inventories of outstanding taxes was followed by the absconding of one tax collector to France, by the flight of another to parts still unknown and by the confession of defalcation by two others. It is probable that irregularities existed in every revenue district of the island.

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As the basis of a precise system of administrative account, a formal internal revenue ledger was constructed, by which every internal revenue official became directly and manifestly accountable to the insular treasury for all taxes and revenues entrusted to him for collection. For more detailed acquaintance with the process of tax collection, a general taxpayers' ledger was opened, from which might be ascertained not only the gross amount, but also the specific quality, of taxes paid and unpaid. Finally, a series of treasurer's forms was devised for the monthly return in detail by tax collectors of every item of revenue collected during the preceding month.

On July 1, 1900, the regulations so outlined went into successful operation. Since that time the treasurer has received within five days after the close of each month, from every tax collector in the island, duplicate sets of forms, showing in itemized detail the internal revenues collected during the preceding month. One set is immediately forwarded to the auditor of Porto Rico, for use in connection with the examination of accounts rendered by the corresponding official. The other set is employed in entering, first, detailed credits in the several taxpayers' ledgers and, thereafter, aggregate credits in the accounts of the several tax collectors in the internal revenue ledger.

With these changes there entered into the internal revenue system of Porto Rico a degree of integrity literally unknown before. Small peculations continued to be revealed from time to time, but detection was prompt and punishment sure. An impressive object lesson was afforded in the extradition from a distant country — probably for the first time in the history of Porto Rico — of a public defaulter and in his conviction and long-term sentence. Gradually the feeling spread that a new spirit was abroad, that any fiduciary breach was a large risk and that detection carried with it a dangerous likelihood of severe punishment.

A conspicuous weakness of the internal revenue system of Porto Rico during the period of military government was the complete absence of any field inspection of tax assessments and

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excise collections. To remedy this defect, one of the earliest acts of the treasurer under the civil government was the organization of a bureau of internal revenue agents, followed by the designation of a temporary force of tax examiners to supervise the assessment of insular taxes by the local bodies, and by the appointment of a permanent corps of internal revenue agents, charged with the enforcement of the excise taxes. This body of carefully picked men rendered important service, both direct and indirect. Conspicuous cases of underassessment were corrected, while the mere assertion by the insular government of an intention to subject the tax assessments of the island to something more than the perfunctory scrutiny previously in vogue effected marked improvement. Similarly, despite the defects of the existing law and the limited number of internal revenue agents employed, the increased yield of the stamp taxes on alcoholics and matches was startling. But the indirect moral effect derived from the inspection work was even greater. Under the Spanish régime the office corresponding to revenue agent was one of the most lucrative in the public service, because of the flourishing existence of extortion and fraud. The spectacle of a brave, indefatigable body of non-partisan agents who would neither wink at fraud nor accept a bribe was an astounding revelation. Popular opinion in Porto Rico ceased to identify tax inspection with bribery and blackmail, and admirable preparation was thus made for the introduction of a body of excise taxes in the new revenue system.

Less conspicuous, but equally important, changes were introduced in other parts of the treasury department, tending to the improvement of financial administration. In the bureau of accounts the two local banks serving as depositories for insular funds were required to pay interest at the rate of two per cent on daily balances on deposit, and to establish agencies for the receipt of insular funds in such places as might from time to time be required, thereby relieving the treasurer of the inconvenient and expensive practice of sending monthly an armed escort about the island to receive public funds that were in the

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possession of revenue officials. Persons indebted to the treasury were instructed to make payment to an insular depository and to present the bank receipt, rather than the actual funds, in discharge thereof. Similarly, all payments made by the treasurer were in the form of checks upon a depository bank. With the exception of occasional incidental receipts and small contingent expenditures, no funds whatever passed through the office of the treasurer save in the form of bank receipts and checks. By careful adjustment of drafts and by instructions to revenue officials as to places of deposit, the public funds of the island remained practically equally divided between the two depositories.

The financial activities of the municipal districts came under the cognizance of the bureau of municipal affairs in five particulars: (1) approval of municipal budgets, (2) examination of municipal accounts, (3) authorization of transfers in municipal appropriations, (4) approval of municipal taxes and dues, and (5) determination of administrative appeals. In each of these directions the endeavor was made to retain lawful insular control over municipal finances, in the belief that this was an indispensable requisite of financial security in Porto Rico. It was recognized that the finances of the insular government might be conducted with the highest efficiency and economy, and that even then every resultant benefit might be vitiated by incompetence and dishonesty in municipal financiering. To the ordinary taxpayer in Porto Rico it was a matter of no concern whether the unjust tax with which he was mulcted was insular or municipal, and the economic interests of the island were as injuriously affected by bankruptcy in the municipal districts as in the insular treasury.

Gradually the leaven worked. The treasury deficits disappeared, fraud and irregularities grew less, and a new state of public opinion developed, as it became more and more evident that the revenue laws of Porto Rico were thenceforth to be regarded as something more than archaic literature. Yet every hour of every day made it apparent that, if American government in Porto Rico was to realize that which political existence under the Stars and Stripes must mean, an early

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financial reconstruction was imperative. Not only because existing sources of revenue were in practice inadequate, but because they were in principle inequitable, was financial reconstruction urgent.

This work became the concern of the bureau of tax law revision, in direct succession to the special commission for revising the laws relating to taxation in Porto Rico. Continuing the work of that body, certain fundamental principles were first adopted as the basis for a general revision of the tax system of the island. A preliminary memorandum was then drafted and employed in tentative verification of the measures therein proposed. Local conditions were studied, representative persons were interviewed, typical requirements were examined and departmental experience was incorporated. In October, 1900, the detailed preparation of a revenue act was begun, and a month later a completed draft was laid by the treasurer before the committee on finance and appropriations of the executive council. The successive circumstances attending the revision of this draft by the committee, its submission as a committee report to the executive council, its passage by that body, its amendment by the house of delegates, its emergence from the conference committee of the two legislative branches, its final passage, and its approval by the governor of Porto Rico on January 31, 1901, as "An act to provide revenue for the people of Porto Rico, and for other purposes"—all these steps pertain to the legislative, rather than to the financial, history of Porto Rico. Two alternative courses presented themselves in the revision of the revenue system of the island; the one embodied the fundamental principle of Spanish rule and meant the imposition of heavy indirect taxes upon articles of necessary consumption, with inadequate taxation or the entire escape of wealth and property; the other meant the application of the modern principle of taxation according to taxpaying capacity, and consisted in a reasonable direct tax upon wealth, together with moderate indirect taxes upon luxurious and injurious consumption. In the Revenue Act of January 31, 1901, the legislative assembly of Porto Rico made definite choice of the latter course.

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III.

The Revenue Act of January 31, 1901, more familiarly known as the Hollander Bill, provided for a property tax, a series of excise taxes, an inheritance tax and certain important administrative changes.

The property tax replaced the existing territorial tax and the industrial and commercial tax. The rate of the new tax for insular purposes for the fiscal year 1901–02, and thereafter until otherwise provided by the legislature of Porto Rico, was fixed at one-half of one per cent; and provision was made that the rate to be levied for local purposes should in no case exceed an additional one-half per cent. The tax itself differed from the more advanced forms of the property tax, as known in the United States, only to the extent required by peculiar local conditions. Real and personal property not specifically exempted was subject to assessment, nominally at its actual market value. The list of exemptions was generous, including the property of persons whose estate was valued at less than $100 and debts to the extent of assessed credits. Mortgages were treated as an interest in the property, and were made subject to taxation except where an unequivocal covenant existed making the taxes payable by the mortgagor. The assessment was placed in charge of a supervisor of assessment, appointed by the governor. The supervisor appointed division assessors, with the approval of the treasurer; and the division assessors nominated, for appointment by the treasurer, enough district assessors to complete the assessment within a convenient period of time. Tax appeals were heard, in the first instance, by selected groups of division and district assessors sitting as boards of review and, in the last instance, by the executive council sitting as a board of equalization and appeal. The treasurer was authorized to institute an annual revision and correction of the original assessment of property, in accordance with the provisions of the original valuation. Ordinary corporations were assessed by the treasurer upon the actual market value of their capital invested in Porto Rico. Surety, insurance or building and loan companies paid,

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in addition to a special stamp tax upon policies, an annual tax of three per cent upon the gross amount of premiums or dues collected in Porto Rico. For the collection of the property tax the treasurer was empowered to divide the island into suitable districts and to appoint a corps of bonded and salaried collectors and deputy collectors. The severity of the Spanish procedure for the collection of delinquent taxes, whereby the property of the taxpayer was forthwith attached and sold, was modified by the adoption of a period of grace and of a term of redemption thereafter, during which the property so sold might be redeemed, with the noteworthy provision that in no event might property be sold for delinquent taxes without the written consent of the treasurer, previously obtained in each special case.

The excise taxation of the act consisted of three schedules. Schedule A imposed duties on distilled spirits, beers and wines, cigars, cigarettes, manufactured tobacco, playing cards, proprietary medicinal preparations, oleomargarine, arms and ammunition and matches, manufactured in or imported into Porto Rico. Schedule B imposed a scale of license taxes upon dealers in or importers of the foregoing articles. The rates were in most cases materially less than the corresponding internal revenue taxes of the United States, and domestic products were protected by differentials on imports from foreign countries. Schedule C imposed moderate documentary taxes on bills of lading, custom house entries and notarial instruments. Provision was made for the appointment of a corps of internal revenue agents, with adequate powers, and of a sufficient number of internal revenue stamp agents; and detailed and stringent penalty clauses were inserted. The municipal districts were prohibited from levying consumption taxes, other than local licenses, upon any of the articles subject to an insular excise. In lieu thereof they were to receive, in proportion to population, fifty per cent of the proceeds of the insular excises in monthly allotment until July 1, 1901, and fifteen per cent thereafter. All articles exported from the island were exempt from the insular excise.

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The inheritance tax was slightly progressive, varying in accordance with the relationship of the heir and the value of each separate inheritance or bequest. The first $200 in value of every inheritance, and all property passing to the wife, child, adopted child or grandchild, were exempt; from $200 to $5000, husbands and lineal descendants paid 1 per cent, other heirs 3 per cent; from $5000 to $20,000, 1½ per cent and 4½ per cent; upon the next $30,000, 2 per cent and 6 per cent; and upon the value in excess of $50,000, 3 per cent and 9 per cent, respectively.

Among the important administrative modifications made by the revenue act were the substitution of salaried deputy collectors for fee-paid tax-gatherers, the annulment of municipal *octrois* or *consumo* taxes upon articles subject to insular excise taxes, and the release of collectors from the duty of disbursing the expenditures of the insular courts. Also the treasurer was directed to examine periodically the condition and financial standing of surety, insurance, and building and loan companies, and of banks and quasi-public corporations doing business in Porto Rico, revoking the license granted to any such company whenever it should appear that its assets were insufficient to justify continuance in business or that its condition was unsound; provided that, before such revocation or before any publication thereof should have been made, the executive council should have approved the same.

Under the provisions of the revenue act the excise taxes and the inheritance tax went into operation with its passage, January 31, 1901. The property tax was levied for the fiscal year beginning July 1, 1901, but provision was made for an immediate preparatory assessment of property.

The method of collecting the excise taxes was left to administrative regulation. Study and experience had made clear that the system prevailing in the United States — the affixture of revenue stamps to the articles taxed — was not adapted to Porto Rico, and that better results might be expected from a modification of the Mexican system, in accordance with which the sale or shipment, rather than the commodity liable, is

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made to bear evidence of the payment of the tax. Extensive anticipatory preparations had been made, and in a surprisingly short time the system was in easy operation. Its details are interesting and noteworthy enough to merit independent description. In brief, the tax is paid by the affixture of stamps to an invoice or bill of sale, which must accompany every shipment of articles liable to the excise. Blank invoices, attached to a stub and bound in book form, are furnished to manufacturers and importers at a nominal price. Each book is numbered with the "assessment number" of the factory, and each page and stub is numbered seriatim, in order to facilitate check and audit. When a shipment is made, the quantity and value of the goods and the name and location of the consignee are entered upon both the stub and the invoice; the corresponding stamps are pasted over the line which separates the stub from the invoice sheet; and when the sheet is detached, the stamps are destroyed, leaving part upon the stub and part upon the invoice. An official register book is furnished to every manufacturer, in which he is required to enter all transactions and from which a certified transcript is monthly transmitted. Close field inspection and an automatic series of checks reduce the possibility of fraud to a safe minimum.

Careful preparation had been made for the assessment of property. Less than five months were available for the completion of the assessment and the conversion of the schedules into tax rolls. To this should be added the facts that there had never been such an assessment of property in Porto Rico, that land surveys and capital records were glaringly imperfect, and that topography, climate and means of communication and transportation were as unfavorable as can well be conceived for accurate and rapid field work. A competent supervisor of assessment was appointed and a bureau of assessment was immediately thereafter organized as an integral part of the office of the treasurer. The month of February was devoted to the selection and appointment of 25 division assessors and 200 district assessors, to the preparation and distribution of 125,000 schedules, and to the issue of detailed instructions.

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On March 1 the assessment of property was formally begun, and it reached completion within thirty days. The boards of review met in April; the executive council sat as a board of appeal in May; the assessment schedules were converted into tax rolls and tax bills in June; and the collection of the tax began promptly in July.

Thus, within five months after the executive signature had been affixed to the revenue act, feature after feature of the new system had been perfected, until it was put into complete operation. *Pari passu* with the introduction of the system, the intelligent sentiment of the island had advanced to a comprehension of its elements and an appreciation of its results. Instead of the high internal revenue taxes of the United States, the proceeds of which would accrue to the federal treasury, it was recognized that Porto Rico had levied for its own needs a limited schedule of excise taxes, moderate in amount and extent, which injured no industry, curtailed no production, burdened no consumer; whose enforcement was so efficient and whose acceptance was so general that five months of operation and the collection of more than $225,000 revenue therefrom necessitated barely a single prosecution. The story of the property tax was much the same. Instead of being employed as an instrument of political and individual oppression, the preparatory assessment of property was made on so high a plane of efficiency and integrity that, although property to the extent of $100,000,000 was assessed and 65,000 schedules were returned, the board of appeal was called upon to consider only some 250 remonstrances from dissatisfied taxpayers, all of which were ultimately adjusted. Even the inheritance tax was securely established; and, aside from its material results, recognition of the principles constituted a large gain.

IV.

There still remained one important step to be taken before the financial reconstruction of Porto Rico stood definite and complete. By the terms of the organic act the collection of

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customs duties on trade between the United States and Porto Rico ceased after March 1, 1901; but a further clause of the act provided that, if at any time prior to that date the legislative assembly should enact and put into operation a system of revenue to meet the necessities of the insular government, then by executive proclamation free trade should be established. A survey of the condition of insular finances on the eve of the new fiscal year, made in the light of the completed property assessment and the successful operation of the excise taxes, suggested that the time for such action had arrived.

The necessary expenses for carrying on the government of the island for the fiscal year beginning July 1, 1901, as authorized by the insular legislature in general and special appropriation bills, aggregated $1,976,802.21. The resources of the insular government for the same fiscal year — excluding customs collections on trade between Porto Rico and the United States — were essentially three in number: (1) the proceeds of the property tax, (2) the proceeds of the excise taxes, and (3) the customs duties on imports into Porto Rico from countries other than the United States.

The property tax, at the rate of one-half of one per cent upon an assessment of $100,000,000, could be expected to yield $500,000 — for it was a reasonable assumption that arrearages of the old direct taxes would more than compensate for delinquencies of the new. Careful estimates, based upon sworn declarations of importers and manufacturers as to production and importation, indicated that the excise taxes would contribute to the insular treasury the sum of $715,343. Any precise estimate of the amount of customs collections on foreign imports was impossible. The effect of free trade with the United States would undoubtedly be to reduce the volume of foreign trade. On the other hand, the economic improvement and the increasing purchasing power of the island, the rigidity of its credit relations, the permanence of certain consumption demands capable of satisfaction only in European markets and the relatively slight differential offered by free

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trade, as compared with the existing tariff on imports from the United States, warranted the belief that the change would not be instantaneous or overwhelming. After consultation with competent observers, it seemed reasonable to accept the actual collections for the twelve months ending April 30, 1901, as the estimate for the fiscal year beginning July 1, 1901 — namely, $784,775.

The estimated receipts of the island from its three important sources of revenues thus aggregated $2,000,118, or $23,315.79 more than the authorized expenditures. In this estimate no account was taken of minor sources of income, such as the inheritance tax, license and other fees, judicial fines, canon payments, royalty and franchise charges, interest on public funds, income from public property, *etc.* As it appeared that for the approaching fiscal year adequate provision had been made to meet the necessities of the insular government out of current income, the prospective condition of the insular treasury was regarded as secure, without dependence upon available revenues other than those deliberately provided.

In reality, however, the condition of the insular treasury was very much more favorable than this, by reason of the existence of extraordinary reserve funds, available if necessary for current expenditures. These funds completely removed the doubt ordinarily associated with all financial estimate and peculiarly affecting, as has been noted, the estimate of duties on foreign imports. The first of these funds was a sum of some $600,000 of customs duties and internal revenues collected upon Porto Rican imports into the United States from May 1, 1900, to July 1, 1901, designed to meet current expenditures during that period, but left absolutely intact by virtue of the careful financial policy pursued. The second fund was the unexpended portion of the "two million customs refund," aggregating nearly $900,000 — exclusive of large "obligated," but unexpended, sums from this fund held in the insular treasury as special trust funds. It has been a fundamental part of the financial policy of the insular administration, from the very beginning of civil government, to devote these reserve funds

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to meeting emergency expenditures and to defraying the cost of public improvements not properly chargeable to current revenues — such as road construction and schoolhouse building; but their mere availability in aid of expenses of maintenance, should the extraordinary necessity therefor arise, constitutes an element of very great strength in the financial future of the island.

A detailed report embodying the foregoing facts was accordingly presented by the treasurer to the governor of Porto Rico, together with the opinion that the financial situation of the island seemed so definite and secure as to warrant the action contemplated by section 3 of the organic act. After careful consideration, in connection with the heads of administrative departments, this financial program was definitely adopted by Governor Allen and the insular legislature was summoned to meet in extraordinary session in San Juan on July 4. The financial situation was presented clearly and convincingly by Governor Allen in a special message; and the insular legislature, with dignified procedure and enthusiastic spirit, adopted a joint resolution reciting, in the terms of the organic act, that there had been enacted and put into operation a system of revenue to meet the necessities of the insular government. The resolution was delivered in person by Governor Allen to President McKinley, and on July 25, 1901, the third anniversary of the coming of the American troops to the island, free trade between Porto Rico and the United States was proclaimed.

V.

The present financial status of Porto Rico compares favorably with that of any locality in the United States — indeed, with any similarly circumstanced community in the world. Without a dollar of funded or floating insular indebtedness, with sources of revenue that may be expected to meet the requirements of reasonable and economical administration, with reserve funds of more than one and a half million dollars, designed for "construction work," but available, in case of

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emergency, in aid of current expenditure — the firm basis of a secure insular economy may properly be said to have been laid. A qualitative examination yields results no less satisfying. Translated into plain language, the financial reorganization of Porto Rico means that the burden of taxation upon the real economic life of the island is less to-day than at any time in its history; that the great bulk of its one million souls are entirely exempt from direct taxation and are subject to moderate excises only, to the extent of their injurious or luxurious consumption; that coffee, tobacco and fruit lands — the great mainstay of its people's life — are paying less taxes by half than before the enactment of the revenue act; that, through the operation of a generous exemption clause, thousands of little patches of untilled soil are being brought into cultivation and a sturdy peasant proprietor class is being developed; and finally, that having enacted and put into operation an adequate system of public revenue, Porto Rico derives not only the advantage which comes from secure public solvency and sound public credit, but receives the stimulus and reaps the harvest of free trade with the United States.

These are general statements, but a descent to particulars gives even more striking returns. Of the two million dollars a year that the insular government spends, one million and a half — seventy-five per cent — represent revenues (customs duties and excise taxes) that in every part of the United States accrue not to the state, but to the federal, treasury. In other words, as compared with every state and territory in the Union, Porto Rico raises by what might be called distinctively insular taxation only one-fourth of what it is actually enabled to spend; over and above an initial gift of more than two million dollars, the island receives annually, as a virtual bounty from the United States, one and a half million dollars.

But even the moderate burdens which now rest upon the island are self-imposed. Of the two million dollars, constituting the annual insular expenditure, almost exactly one-half is devoted to the maintenance of schools and roads. If the people of Porto Rico will consent henceforth to spend one-half

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as much as at present for either education or internal improvement, the property tax can be entirely removed, or the excise on alcoholics can be entirely repealed, or both taxes can be reduced fifty per cent. Thus, no schools and free rum, no roads and untaxed property, remain alternative policies from which the sentiment of the island, through its intelligent exponents and its duly elected representatives, has chosen and may be expected to choose, in no uncertain way, for good. When the high excise on rum or the close assessment of cane land is scrutinized, the same observation should include the less bruited fact that the free-trade proclamation of July 25 gave to the prosperous sugar interest alone an additional differential of five dollars on every ton of sugar raised on the island; that is, upon a product of one hundred thousand tons a gift of five hundred thousand dollars — as much as is raised in the aggregate by every kind of insular property taxation. What is conspicuous in the case of sugar is true to a large extent of tobacco and fruit interests; a very small burden has been assumed and a very great benefit is being derived.

The financial program which Porto Rico has defined for itself consists of large expenditures for schools and roads, low taxation of capital and property, reasonable excises on dispensable consumption and free trade with the United States. But every part of the program is elastic. If the island will spend less, it need tax less. If it will increase the charge upon property, it can reduce the burden on alcoholics and tobacco. If it will impose an excise or countenance a tariff on sugar, every other source of revenue can be scaled. It is true that the appropriated expenditures of the island must be planned, not with respect to its limitless needs, but with regard to its definite resources. But if the political existence of Porto Rico under the new conditions is to realize its highest possibility, every consideration of social development, economic stability and financial integrity demands that, instead of rash and injudicious curtailment of expenditure, the sources of insular revenue now provided should be maintained and, if necessary, extended.

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In any event, it seems no unwarranted optimism to believe that a secure financial basis has been laid. Much remains to be done — the betterment of municipal finances, the extension of banking facilities, the regulation of credit currency; but these and other problems will be solved as they are met. In conclusion, perhaps nothing better can be added than the sentences with which Governor Allen closed his review of insular finances during the first year of civil government:

> All in all, the financial outlook of Porto Rico is as promising as its present condition is gratifying. An example of stability and integrity has been established in the financial operations of the island, and a wise and equitable revenue system has been adopted which is not only adequate for present requirements, but possesses elasticity with respect to the future. Economy must be displayed in the expenditures of the island; and caution in its financial administration. But in these respects the operations of the first year of civil government reveal signal advance, and the course of the future seems to lie straight in the direction in which an unmistakable path has already been blazed.

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CROMWELL'S POLICY IN ITS ECONOMIC ASPECTS.

A BRILLIANT, though at times an erratic, writer[1] has compared human society to a complete living organism, having circulation, heart and members. "The heart," he says, "lies at the seat of international commercial exchanges, the circulation flows through the arteries of trade, and the members usually show more or less vitality in proportion to their direct relations with the heart." It is possible, without accepting the biological view of social development, to admit that the above metaphorical description is, in effect, a very vivid picture of the history of world trade and the highways thereof.

By far the most important of world-trade routes, from time immemorial up to the discovery of America, has been that connecting the East with the West — the route that ever since the days of Homer and Solomon has given the West its ivory, spices, silk and precious stones. The history of this commerce between Orient and Occident[2] is, to a certain extent, an epitome of the history of Egypt, Judaea, Babylon, Greece, Persia, Carthage and Rome. It throws a flood of light on many important events of the ancient world and is in itself a proof of the essential unity of history. When we study these commercial relations, it is not surprising to find that each one of these states, in her period of greatest political power, has had control of the Eastern trade. Not that it should be inferred that control of the Asiatic trade route was in all cases the source of political greatness: in some instances it was only a manifestation thereof, for at times it was only through political power that a state was able to get control of this commerce. In all cases economic and political causes reacted

[1] Brooks Adams, Economic Supremacy of America, p. 142.

[2] For a remarkable summary of these commercial relations, see Sir William Wilson Hunter, History of British India, vol. i, ch. i.

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one upon the other; in no instance can one set of causes be considered fundamental.

After the fall of Rome in the West, Asiatic trade came under the control of two Eastern states, that founded by Mohammed and the Byzantine Empire. It gave a peculiar note to that civilization with which we are acquainted in the *Arabian Nights*, and it preserved in the Empire of Constantine Porphyrogenitus the art, learning and laws of old Rome.[1] The peoples who were subsequently to constitute England, France, Germany and Italy had practically no commercial relations with the East until the Crusades. But these great religious and emotional expeditions, by a most natural transition, gradually changed their character and became commercial. Instead of setting out to seize the Holy Land from the grasp of the infidel, Venice, as leader of the Crusade in the opening years of the thirteenth century, planned successfully to capture that Asiatic trade route controlled from Constantinople. The stimulus which Europe received from contact with the East during the Crusades had incalculable consequences. Europe, thus brought into touch with a much higher civilization, experienced new economic wants; and these the merchants of the Italian city-states, being on the trade route between East and West, could of all merchants most conveniently satisfy. The centuries following the Crusades mark the power and wealth of Venice, Pisa, Genoa and Florence. From Italy the Eastern products were sent north to the Hanseatic cities of lower Germany, whence they were distributed to other countries; and all the states and cities on this trade route between the East and the West were at the highest point of their economic prosperity. This condition lasted until the rise of the Ottoman power in the fifteenth century, when the Turks not only captured Constantinople but also developed a formidable navy and made themselves masters of the Mediterranean. No important commercial relations between Turk and Christian were possible.

[1] *Cf.* Frederic Harrison, Byzantine History in the Early Middle Ages, p. 33. On this trade under Justinian, see Cunningham, Western Civilization: Ancient Times, pp. 201–202.

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For a time Europe was to all intents and purposes cut off from the Eastern trade.

The dissatisfaction with this state of affairs and the imperative demand for a renewal of commercial intercourse with the East led to that period of intense scientific and exploring activity which culminated in the discoveries of Vasco da Gama and of Columbus. Almost simultaneously a new trade route to the East was thrown open and a new world was given to Europe for economic exploitation. To the commerce with the East was added the wealth of America. The consequences were revolutionary. The old trade routes were abandoned and the prosperity of the Italian and South German cities was a thing of the past. The future belonged not to the Mediterranean cities, but to those on or near the Atlantic seaboard. Spain and Portugal, to whom the credit of these two great discoveries is due, naturally profited first thereby. In this these states were aided not only by prior discovery, but also by the bull of demarcation issued by Alexander VI; for it must not be lost sight of that this document, which divided the entire unexplored and pagan world between Spain and Portugal, constituted an unquestionable title which no other nation at that time would dare to challenge.[1] Spain and Portugal enjoyed their monopoly for a time, but it was inevitable that other nations should fret under the restraint of the papal bull, and should seek a share of the wealth flowing into the states of the Iberian peninsula. In fact, opposition to the monopoly conferred by the Popes on Spain and Portugal was unquestionably one of the elements of that complicated movement of revolt against Rome called the Reformation. France, because of her religious wars, was in no position to enter the field as a competitor. The same holds true for Germany; for not only did the religious wars ravage this country, but in addition the absolute decentralization of the state would in itself have prevented any vigorous commercial and colonial policy.[2] With the French and Germans out of the contest, Portugal's power

[1] Henry Harrisse, Diplomatic History of America, p. 40 *et seq.*

[2] *Cf.* Ehrenberg, Hamburg und England in Zeitalter der Königin Elisabeth, p. 39.

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in the East and Spain's power in the West were to be laid low by the Dutch and the English.

At one time, toward the end of Elizabeth's reign, after the destruction of the Armada, it seemed as if England would profit most by the declining power of Spain and of Portugal. The English nation was a vast storehouse of energy and was eager for the contest. But the accession of the Stuarts, with the ensuing conflict between *jure-divino* Anglicanism and parliamentary Puritanism, changed the aspect of affairs. The nation's energy was consumed in the home conflict, and the supremacy in foreign commerce, lost by Spain and Portugal, was won for the time by the United Provinces. The northern provinces of the Netherlands, which had revolted against Spain's religious despotism, became during the course of two generations the economic masters of Europe. The economic history of the United Provinces during the first half of the seventeenth century is merely the record of unchecked progress in the acquisition of wealth and colonies, such as can be found in the history of England during the decades following the Napoleonic Era.

It was due to a curious coincidence that most of the colonies acquired by the Dutch during these years were gained at the expense of the Portuguese. When, in 1580, Portugal was annexed by Spain, the Dutch were in the midst of their revolt against the latter country. Hitherto, the spices of the East had come to Lisbon, whence the Dutch were accustomed to distribute them to Europe. This profitable trade of the Dutch as middlemen was one of their main supports in the movement against Spain, and the annexation of Portugal was a severe blow to their cause. Being cut off from their profits as distributers, they sought the trade at its fountain-head and stripped Portugal of her richest possessions in the East. Portugal was driven out of the Spice Islands and the Dutch acquired a monopoly of this trade. In the Western hemisphere also, as well as in the East, the United Provinces profited at the expense of Portugal, and Brazil during these years became a Dutch possession.

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This colonial expansion was not the only source of wealth the Dutch had. The manufactures, such as cloth and linen, for which even during the Middle Ages the Netherlands were noted, gave employment, it is said, to 600,000 people;[1] the fisheries were a source of great wealth to the people and to the government; the Baltic trade, which at that time was more important in volume[2] and hardly less lucrative than the Eastern trade, was practically controlled by the Dutch; and, finally, they became, through the enormous development of their mercantile marine, the carriers of the world. According to Sir Walter Raleigh, "the Low Countries had as many Ships and Vessels as eleven Kingdoms of Christendom had."[3] A vast accumulation of capital, better banking and commercial facilities and methods, and, as a consequence, a low interest rate,[4] gave to the Dutch the economic mastery of Europe and an advantage of position which the other nations of Europe found extremely difficult to overcome.

The success of the Dutch was due, in the main, to the fact that the movement was a national one. The merchants could rely on the support of their government. The failure of England to realize the promise of the Elizabethan era was in the same degree due to the non-national dynastic policy of the first two Stuart kings. No stronger contrast is possible than that between the policy of England and that of the United Provinces during the first half of the seventeenth century. At every stage in this period of English colonial and commercial history we can trace the influence of the Spanish marriage project, of the fortunes of James's son-in-law, the Elector-Palatine, and particularly of the influence of the need of the Stuarts for money to free themselves from the fetters of parliamentary

[1] A. Lefèvre-Pontalis, John de Witt, vol. i, p. 9; *cf.* Pringsheim, Beiträge zur wirthschaftlichen Entwickelungsgeschichte der Vereinigten Niederlände im 17ten und 18ten Jahrhundert, in Schmoller's Forschungen, vol. x, iii, pp. 1–3.

[2] Gardiner, Commonwealth and Protectorate, vol. iii, p. 430.

[3] Works of Sir Walter Raleigh (London, 1751), vol. ii, p. 123.

[4] Sir Josiah Child, A New Discourse of Trade (London, 1694), pp. 195–196; J. de Witt, True Interest and Political Maxims of the Republic of Holland (London, 1746), p. 285.

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government. This financial distress of the first two Stuart kings was in itself to a great extent due to the discovery of America and the influx of silver thence into Europe. The rise of prices which was caused by this influx made the royal income, which was fixed, hopelessly inadequate and was an important factor in causing the conflict between crown and Parliament.[1]

The English East India Company, a weakling in comparison with its Dutch rival, which had the nation and the government at its back, had early entered the field to get a share of the Eastern trade. The capture of Ormuz in 1622, following England's victories on the Indian coast from 1612 on, left India and the Persian Gulf open to England so far as Portugal was concerned.[2] The most lucrative trade, however, was not with India proper, but with Sumatra, Java and the Spice Islands of the far East; and, despite numerous efforts, the English were never able to get a firm footing there. The tragedy at Amboyna, in 1623, even for those days an exceptionally barbarous act, by which a number of Englishmen were judicially murdered, definitely preserved to the Dutch the monopoly of the enormously profitable spice trade. The English merchants had henceforth to devote their efforts to India proper, and even there their position was a precarious one, owing to Dutch opposition.[3] The beginnings of England's Asiatic Empire were not auspicious, mainly because the company could not rely upon the support of the government. Its interests were sacrificed to the dynastic aims of James I and to the fiscal needs of Charles I. Despite certain half-hearted efforts on the part of the Stuarts, the Dutch made absolutely no reparation for the murder at Amboyna. Charles's great desire was to create so large an income for the crown that he might "live of his own" and free himself from the necessity of summoning Parliament. His ideal in government was the absolute monarchy

[1] Cunningham, English Industry and Commerce: Modern Times (1892), vol. ii, p. 104. [2] Hunter, India, vol. i, pp. 329–330.

[3] Bruce, Annals of the Honorable East India Co., vol. i, pp. 445–446; *cf.* also Thurloe, State Papers, vol. i, pp. 573–574.

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of the continent; and, as he knew that the sovereigns of the houses of Aviz and Hapsburg had personally drawn large profits from the East India trade, he sought to do likewise. Instead of fostering the Eastern trade, Charles I's efforts, especially in the non-parliamentary years preceding the rebellion, were devoted to extorting money from the East India Company.[1]

The same influences are visible in the purely colonial policy of the Stuarts, in the early history of the New England and Southern colonies. Everything was subservient to the Spanish marriage,[2] to the fortune of the Winter King and to the financial needs of the crown. The fate of Sir Walter Raleigh, the unfortunate survivor of a more heroic and national age, is typical of the sacrifice of colonial interests to dynastic policy.[3] Then in 1632 all places in Canada and Nova Scotia which had been settled by the English were by the treaty of St. Germain restored to France.[4] Charles's reason for doing so, as we learn from a letter to the English ambassador in Paris, was his pressing need of money and his hope of receiving, in return for the cession, the Queen's dowry, which had not yet been paid.[5] The same desire for money influenced the Stuart policy toward Virginia. It found expression especially in the desire of the Stuarts to make a royal monopoly of Virginia tobacco.[6]

Whatever progress was made in English colonization under Charles I and James I was due to private initiative, and was accomplished in spite of the action of the government. What would have been achieved, had the English companies and merchants felt sure of the support of the government, can be seen by what the Dutch did in these years. The settlements made by the English were comparatively unimportant and for the most part occupied regions which were the leavings of other

[1] *Cf.* Hunter, vol. ii, pp. 30–31.

[2] *Cf.* Brown, Genesis of the United States, *passim*.

[3] Stebbing, Sir Walter Ralegh, pp. 332, 333.

[4] Dumont, Corps universel diplomatique, vol. vi, part i, p. 31.

[5] Hugh Edward Egerton, A Short History of British Colonial Policy, p. 50.

[6] Beer, Commercial Policy of England towards the American Colonies, pp. 22–27.

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nations — of Spain and the United Provinces. This cannot be sufficiently emphasized. According to the orthodox political economy of the day, which measured a country's wealth by its store of precious metals and its prosperity by the excess of merchandise exports over imports, the Spanish and Dutch had carried off all the valuable colonies. It was argued that the flow of silver from the Spanish colonies to the mother-country brought wealth to Spain. At the same time, it was clearly seen that the spices, which the Dutch sold at enormous profits to all Europe, brought a large influx of gold and silver into the United Provinces. The mercantilists recognized that, on a smaller scale, Virginia and Barbadoes were in this way of benefit to England, on account of their tobacco and sugar, respectively. But no economist of the day could see any advantage to England from the Northern colonies; for they produced the same commodities as England, and thus competed with the home product. They were considered a source of weakness, rather than of strength — in which fact we can find the explanation for the unpopularity of the New England colonies among English publicists of the day. For like reasons, the East India trade was very unpopular in England, since it rendered necessary the exportation of silver. Had the East India trade been as profitable as the Dutch trade with the Spice Islands, the orthodox economist of the day would easily have seen the benefits thereof.[1] Though the English settlements in India and in America bore in them the seeds of the greatest empire the world has seen, to the mind of the day they were unimportant — merely the leavings of more energetic states. This was due to the conflict between the nation and the Stuart dynasty. The Stuarts lacked both a serious and intelligent interest in the development of the nation's trade and also a well defined and strenuous commercial policy. Not only did they allow the navy to decline[2] — and naval power was in that

[1] On the immense dividends paid by the Dutch East India Company, *cf.* Morris, The History of Colonization, vol. i, p. 317 n.

[2] M. Oppenheim, "The Royal Navy under James I" and "The Royal Navy under Charles I," *English Historical Review*, VII, 495; VIII, 472.

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age of armed trade an absolute prerequisite to successful foreign commerce — but they also subordinated everything to the interests of their dynasty.

I. *Conflict with the Dutch; The Navigation Acts of 1650 and 1651.*

The establishment of the Commonwealth in England, after the execution of Charles I, gave the nation the quiet necessary for the successful exploitation of its economic and commercial resources. Seeley[1] records the great change in foreign policy which followed the fall of Charles I. Correspondingly, a marked change is apparent in the attitude of the government toward colonization and commerce. A German historian has noted that this was the result of a general tendency, which appears in all revolutions, to tame the inflamed passions by increased material efforts.[2] Whether this be so or not, a revival of colonial and commercial expansion was inevitable. The movement toward expansion had existed in the day of Elizabeth, and had been only temporarily checked by the politico-religious conflict in the two succeeding reigns. It was inevitable that this movement would go on, and at a much accelerated pace, when the nation's energy, which had been dammed up by the internal conflict, should again have free play. The nation's resources, its industry and commerce, had not been so seriously crippled by the Civil War as would be imagined.[3] There was a feeling of confidence everywhere and an energy which nothing could withstand. And on every side the English saw the Dutch in possession of the most valuable trade.

From the waters in and around England, Dutch fishermen brought wealth to their country.[4] The contemporary estimate,

[1] Growth of British Policy, vol. ii, p. 1.

[2] Richard Mayrin Helmolt, Weltgeschichte, Bd. vii, part i, p. 99. "Die Tyrannis oder der Caesarismus — als solchen darf man Cromwell's Protektorat bezeichnen — hat immer das Streben, die noch von den Nachschwingungen der Revolution erzitternden Leidenschaften durch Ablenkung auf die wirtschaftlichen Interessen zu beschwichtigen."

[3] *Cf.* J. E. Symes, Social England, vol. iv, p. 270.

[4] *Cf.* S. R. Gardiner, Commonwealth and Protectorate, vol. ii, pp. 80–81.

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that 6400 vessels and 168,000 men were employed by the Dutch in the fisheries, that the public revenue derived therefrom was nearly one million pounds, and that the private revenue was ten times as large as this,[1] is an exaggeration.[2] Still, the fisheries were unquestionably a most important Dutch industry; and what especially galled Englishmen was the fact that the resulting wealth was derived, to a great extent, from fishing in what they claimed were English waters.[3] The question of the Dutch fisheries — especially the herring fisheries — and the question of England's dominion of the waters surrounding her[4] were inextricably intertwined. From mediæval times England had claimed that her territorial sovereignty extended over the adjacent waters, that subjects of no other government could fish therein without her license and that her sovereignty should be recognized by a salute to the English flag whenever one of her men-of-war met a foreign vessel in these waters. This claim to the sovereignty of the sea was antiquated, and must needs fall away with the course of events. It had led to that famous controversy between the most renowned of English lawyers, Selden, and the most philosophical jurist of his age, Grotius. Selden in this controversy represented the spirit of reaction; Grotius, the spirit of progress. But the reactionary policy fell in with the interests of England. The opposing views are well represented by a conversation between Bulstrode Whitelocke and the skipper of a Dutch fishing smack, who had been taken prisoner by the ship which was carrying Whitelocke on his famous embassy to Sweden.[5]

Whitelocke: What right have you to fish in these seas?
Skipper: I thought anyone might fish in the broad sea.
Whitelocke: Not without leave of those who have the dominion of those seas.

[1] B. Whitelocke, Journal of the Swedish Embassy, vol. i, p. 123.
[2] Geddes, John de Witt (American edition), p. 199 n.
[3] *Cf.* Whitelocke, *op. cit.*, pp. 152–153.
[4] Mahan, in The Influence of the Sea Power, p. 59, gives a characteristic incident of the enforcement of this claim under James I.
[5] Whitelocke, *op. cit.*, p. 114.

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Skipper: I know not who have the dominion of the sea but they that have the best fleet.

Whitelocke: Indeed, a good fleet is the best argument for the dominion of seas; but though you never asked leave to fish on the seas of our Commonwealth, your predecessors have asked leave to fish here.

England based her claim on ancient privilege; for it could be proven, as Sir Ralphe Maddison said, that the "Soveraignty of the British seas . . . by antient Records . . . belonged to the Soveraign of this Land."[1] It was considered "to the shame and wonderfull dishonour of England" that the herring fisheries in the waters adjacent to England were controlled by the Dutch.[2] The pamphlet literature on this subject is large, and every writer on commerce urged England to drive the Dutch from these fisheries. The very growth of the fisheries was a proof that England had not been able to enforce her claim to this monopoly; in fact, no serious attempt was made to do so, though occasionally an English man-of-war surprised the Dutch fishing fleet and exacted a small license-fee.[3]

The supreme importance of developing the English fisheries was urged on other grounds. It was clearly perceived that the existence of a large fishing fleet would be a source of strength to the nation, as the navy could rely upon the fishermen to furnish sailors to command and to man its vessels.[4] For England understood well enough that "antient Records" were not

[1] Sir Ralphe Maddison, Great Britain's Remembrancer (London, 1655), pp. 39–40. This book was presented to Cromwell and to Parliament.

[2] Lewes Roberts, "The Treasure of Traffike" (London, 1641), p. 89; in Select Collection of Early English Tracts on Commerce.

[3] *Cf.*, for an instance of this in 1636, Gardiner, History of England, 1603–1642, vol. viii, p. 157. It was reported that in 1651 an English man-of-war, meeting the Dutch fishermen, demanded every tenth herring as an acknowledgment of England's sovereignty of the seas. But others said that the Dutchmen were only ordered to strike sail as a salute. See Whitelocke's Memorials (London, 1682), p. 487.

[4] Tobias Gentleman, "England's Way to Win Wealth and to Employ Ships and Mariners" (London, 1614), Harleian Miscellany, vol. iii, p. 248; "Trade's Increase," by J. R. (London, 1615), *Ibid.*, p. 305; Sir Thomas Roe's Speech in Parliament, 1641, on "Cause of Decay of Coin and Trade in England," *Ibid.*, vol. iv, p. 459; Thomas Ratcliff, "The Royal Fishing Revived" (London, 1670), *Ibid.*, vol. vii, p. 403.

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enough to drive the Dutch from their lucrative fisheries, and that the development of the English sea power was a more potent argument. Whitelocke was practically forced to admit this in his argument with the Dutch skipper. Then, as now, and perhaps even more clearly then, it was seen that a nation's sea power depended ultimately on the size of its mercantile marine, whether it should consist of fishing smacks or carrying vessels.

By the force of circumstances, through the shifting of the scene of the Civil War from the land to the sea, the Commonwealth had perforce to devote its attention to the development of the navy. The creation of a great navy, hardly second in efficiency to the "New Model" army of Cromwell, is generally admitted to have been the work of Vane.[1] With this navy in existence, the temper of the nation, in the respite from civil war, rendered it inevitable that the strength of the navy should be used in ousting the Dutch from their monopoly of the fisheries and from their carrying trade.

This carrying trade was a source of irritation even more serious than the fisheries. The Dutch were practically the universal carriers of the day. Their freight rates were much lower than those of the English,[2] and the result was that the English mercantile marine was not increasing.[3] It was especially humiliating to the English to find that the trade with their colonies in America was to a preponderating extent in the hands of the Dutch.[4] A writer upon whom we can place reliance tells us that before 1650 two Dutch ships to one English ship went to the Barbadoes.[5] It was asserted that the colonists of the island loved "to Trade more with the Dutch than with their countrymen."[6]

[1] There is no proof that it was designed, as Green has suggested, to counteract the political influence of the army. — History of the English People, vol. iii, p. 275.

[2] Works of Sir Walter Raleigh (London, 1751), vol. ii, p. 114; "Letters of John Bland," *Virginia Historical Magazine*, vol. i, no. 2, p. 148.

[3] Sheffield, Commerce of the American States (London, 1784), p. 136.

[4] *Cf.* Ranke, History of England in the Seventeenth Century, vol. iii, p. 68.

[5] Sir Josiah Child, A New Discourse of Trade (London, 1694), p. 195.

[6] Whitelocke (Memorials, p. 607) quotes a letter of Penn; see also Thurloe, State Papers, vol. iii, p. 249.

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Not only did the English meet with successful Dutch competition in the fisheries and in the carrying trade, but in all other fields they found the Dutch as strongly intrenched. The Baltic trade, as it was then generally called, consisted of the trade with Denmark, Sweden, Germany, Poland and Russia. From these countries there came, in addition to iron, copper and fur, the tar, pitch, hemp, masts and timber which the United Provinces needed for their shipping; and hence also came the food stuffs which were absolutely essential to an industrial nation. This trade was almost entirely in the hands of the Dutch. Yet, important as the Baltic trade was to the Dutch, it was hardly less so to the English. For, even though England did not depend upon it for her food supply, she did depend upon it for the naval stores which she herself could not produce. If England intended to keep her sea power at the point which it had reached during "the Civil War on the sea," if she intended to compete successfully with the Dutch fisheries and the Dutch carrying-trade, it was essential that she should have free access to those countries that produced naval stores. She could not afford to allow any country to have the slightest advantage over her in this trade. The "open door" was indispensable to her political and economic safety.

Access to the countries whence the tar, pitch, hemp and masts came was through the Sound, the narrow straits separating Denmark from the Scandinavian peninsula. As Denmark had in her possession, at the time of which we are writing, the provinces of Skaania and Blekingen on the Scandinavian side of the Sound, she absolutely controlled the entrance to the Baltic Sea. In 1649, Holland concluded with Denmark a treaty, by which it was provided that, in return for a lump sum paid annually to Denmark, Dutch vessels should have the right to go through the Sound without having to pay any tolls. And it was especially stipulated that Denmark should not grant a similar privilege to any other nation, but should maintain the existing high rates of toll.[1] The English government, clearly

[1] Dumont, Corps universel diplomatique, vol. vi, part i, pp. 535–537. On this whole subject see James Geddes, History of the Administration of John de Witt

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perceiving the advantage which the Dutch had gained by this Redemption Treaty, as it was called, protested through its ambassador, claiming that

> the trade of this nation, through ye Sound into the Baltique Sea, is of very great concernment, both in respect of the usefullness of the commodityes brought from thence, soe necessary, among other things, for building and rigging of shipps, which it is not convenient we should only receive or not, at the pleasure of other nations.[1]

This protest had no effect.

As far as the trade with the East Indies was concerned, it has already been mentioned that the English had been driven out of the Spice Islands and that they were confined to the less lucrative trade with the Indian peninsula proper. The tragedy of Amboyna, which marked the Dutch victory, was a still unavenged Majuba. "The spectres of the tortured victims stood between the two great Protestant powers during a century."[2] The arrogance of the Dutch and the high-handed manner in which they enforced their monopoly were continuous sources of annoyance to English merchants. In 1649 and several times in the two following years the English East India Company petitioned for help against Holland, alleging various sufferings during the preceding twenty years.[3]

Thus, on every side, England saw the Dutch in possession of the most lucrative trade. In order to change this situation and to place the trade with the colonies in English hands, Parliament passed the ordinance of October 3, 1650.[4] This act forbade the ships of any foreign nation from coming to or trading in any of the English colonies in America, "without License first had and obtained from the Parliament or Council of State."[5] In the following year, in order to encourage the

(English edition), pp. 168–169. This treaty was finally ratified only in 1651. *Cf.* also John Fiske, Dutch and Quaker Colonies in America, vol. i, p. 249.

[1] Geddes, *op. cit.*, pp. 176–177.

[2] Hunter, India, vol. i, p. 427.

[3] John Bruce, Annals of the Honorable East India Co., vol. i, pp. 447–448, 458–460, 467.

[4] On this more in detail below; Scobell, vol. ii, pp. 132–134.

[5] Scobell, vol. ii, p. 133.

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English carrying trade and fisheries, the well-known Navigation Act of October, 1651, was passed.[1] This provided that (1) no goods of the growth or manufacture of Asia, Africa or America should be imported into England or the dominions thereof, except in English-manned and English-owned ships; (2) no goods of the growth or manufacture of Europe should be imported into England or the dominions thereof, except in English ships and in such foreign ships as belonged to the country where the goods were produced and manufactured; (3) no goods of foreign growth or manufacture could be brought into England from any other place than the place of growth or production, or from those ports where alone the goods could be shipped or whence they were usually shipped after transportation; and (4) no salted fish and fish oil should be imported into England, except such as should be caught by English ships, and no salted fish should be exported except in English vessels.[2]

The Dutch ambassador tried to have these acts repealed,[3] as it was clearly seen that they were aimed against the United Provinces. But just as the Dutch government would not abandon the Redemption Treaty, so England manifested no disposition to comply with the Dutch request regarding the acts of 1650 and 1651.[4] Instead of repealing these acts, England set about enforcing them most vigorously, seizing many Dutch vessels found trading in violation of their provisions.[5]

In addition to these purely economic difficulties, which would inevitably bring about a war between the English and the

[1] Scobell, II, 176–177.

[2] In 1656 this provision was modified, making it lawful to export certain fish in foreign bottoms. See Scobell, II, 477.

[3] New York Colonial Documents, I, pp. 437, 486; Gardiner, Commonwealth and Protectorate, vol. ii, p. 107; Geddes, John de Witt (English edition), p. 194; Ludlow, Memoirs, vol. i, p. 299.

[4] On the other hand, see the paper found among the Clarendon State Papers and printed by Mr. Firth in *English Historical Review*, vol. viii, p. 531: "The war at first was sett on by those that were the procurers of the act prohibiting trade, which act was procured by some few men for ther interrest; when it came to be known that the Dutch tooke it so ill, it was disputed hard whether it should be revoked."

[5] Thurloe, State Papers, vol. i, p. 187; Sainsbury, Calendar, 1584–1660, p. 364; Whitelocke, Memorials, pp. 495, 498.

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ELECTRONIC REPRODUCTION PROHIBITED

Dutch, there were other differences, some economic and others political, which tended to the same result. In questions of international law, the United Provinces were taking a position rendered necessary by their complex and advanced economic development. At that time there were no well-defined principles as to the rights of neutrals in times of war. The Dutch were in advance of their age when they contended that a neutral ship protects an enemy's goods, contraband of war excepted. England did not accept this view, and being practically at war, though nominally at peace, with France, she seized French goods on Dutch ships. It is true that the ships were in due time restored to their own owners by the courts, but these seizures constituted a real grievance, especially as no formal war existed between England and France.[1] As Mr. Gardiner well says: "It seems as if the English government, having ruined the Dutch trade with England by act of Parliament, had made up its mind to ruin the Dutch trade with France by action of its Court of Admiralty."[2]

Of purely political differences there were many. The Dutch people sympathized with the Stuart family, the relatives of their idolized house of Orange.[3] Then Dr. Dorislaus, the agent of Parliament, had been assassinated at The Hague by English and Scotch royalists,[4] and Parliament felt strong resentment because this "execrable murther"[5] was still unpunished. And, finally, the project, which had been presented to the Dutch government by Oliver St. John and Walter Strickland on behalf of England, of a more strict alliance and closer union between the two countries had been rejected.[6]

[1] See below more in detail.

[2] Gardiner, II, 108–109. *Cf.* also Letters and Papers Relating to the First Dutch War, 1652–1654 (Ed. by S. R. Gardiner), vol. i.

[3] Morley, Cromwell, p. 322; Seeley, Growth of British Policy, II, p. 24.

[4] The Memoirs of Edmund Ludlow (Ed. by Firth), II, 224–225; Geddes, 99–100, 108.

[5] Rymer, Foedera, XX, 596; Thurloe, I, 174. It was on behalf of this Dr. Dorislaus that Cromwell in 1648 wrote to the Master and Fellows of Trinity Hall, Cambridge. See Carlyle, Letters and Speeches of Cromwell (London, 1885), I, 357, Letter no. 86.

[6] Thurloe, I, 182–195; Rymer, XX, 600 *et seq.*; Gardiner, Commonwealth and Protectorate, I, 357 *et seq.*; Geddes, John de Witt, 163 *et seq.*; Gempachi

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If ever a war was inevitable, such was the case in that which broke out in 1652 between England and the United Provinces. A chance encounter between the two great admirals of the age, the Dutch Tromp and the English Blake, off the heights of Dover, brought to a focus an economic conflict which nothing but war or a coalescence of the two states could settle. To call this Dutch war "fratricidal and disastrous," to say that in its policy towards the Dutch Republic the English government "was running wild,"[1] is to ignore entirely the fact that England and the United Provinces were enemies by the very nature of things. If England was ever to redeem the promise of the Elizabethan Age, it must be, in the first place, at the expense of the Dutch, with whom, on nearly all sides of her economic development, she was bound to come into conflict. This rivalry was all the more accentuated by the economic doctrines then prevailing, according to which, to a certain extent, it was believed that what was one nation's gain in commerce was another nation's loss.

During the course of the war, both Dutch and English sought to strengthen themselves by alliances with other powers. And as the war was solely a maritime war, the most advantageous alliance would most naturally be with Denmark, which, on account of her geographical position, controlled the European supply of naval stores. The Dutch were able to follow up the advantage which they had gained by the Redemption Treaty, and succeeded in concluding a treaty of alliance with Denmark in 1653. By this treaty Denmark was bound not only to forbid the passage of English war vessels through the Sound during the continuance of the war, but also to attack the English fleet.[2] In consequence of this treaty, Denmark detained twenty-two English ships and seized the goods therein.[3]

Mitzukuri, English-Niederländische Unionsbestrebungen im Zeitalter Cromwells; Seeley, Growth of British Policy, II, 20 *et seq.* In fact, Ludlow says (Memoirs, ed. by Firth, I, 267) that the failure of this negotiation was the "principal instrument to prevail with the Council of State to move Parliament to pass" the Navigation Act.

[1] Goldwin Smith, Three English Statesmen, p. 70.

[2] Dumont, vol. vi, pt. ii, p. 40. [3] Ludlow, Memoirs, vol. i, pp. 324, 333.

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In order to counteract this alliance, Bulstrode Whitelocke was sent on that embassy to the court of Queen Christina of Sweden, of which he has given us a most entertaining account.[1] He was instructed to do his utmost to counteract the Danish and Dutch alliance, and to get Sweden's aid in opening the Sound.[2] On his arrival in Sweden, Whitelocke devoted his efforts to the project of a joint attack on Denmark's forts on the Sound. But Sweden was not prepared for a war against Denmark and Holland, nor were her economic interests in harmony with those of England. Sweden favored the new doctrine of "free ships, free goods";[3] and the Queen asked Whitelocke "why the Baltic Sea was named as to free navigation and not other seas likewise," and if Cromwell "would consent to the freedom of navigation in America."[4] In a word, Sweden did not see why she should sacrifice blood and treasure to keep the Baltic open to commerce when, at the same time, England insisted on keeping as English monopolies not only the herring fisheries in the waters adjacent to England, but also all trade with the English colonies in America.[5] Thus Whitelocke's mission was a failure; he was unable to secure an alliance with Sweden, and had to be content with an unimportant commercial treaty,[6] concluded in 1654, just at the time that peace was about to be proclaimed between the English and the Dutch.

Notwithstanding the advantage which the Dutch had gained through this alliance with Denmark, the strain of war was more than the United Provinces could bear. In the naval war the Dutch were at an extreme disadvantage, being the more vulnerable in proportion as their mercantile marine was larger than that of England.[7] The consequence of the war was inevitably

[1] A Journal of the Swedish Embassy (Ed. by H. Reeve), 1855.

[2] Whitelocke, Journal, I, 89; *cf.* also I, p. 372. [3] *Ibid.*, I, 370.

[4] *Ibid.*, II, 21; *cf.* also II, p. 30. Thurloe, State Papers, II, 157.

[5] Whitelocke, Journal, II, 50, 102.

[6] Dumont, vol. vi, pt. ii, pp. 74–77; Charles Jenkinson, A Collection of All the Treaties of Peace, vol. i, p. 69. The more important questions, such as trade to America and herring fisheries, were to be regulated in a special treaty.

[7] M. Oppenheim, "The Navy of the Commonwealth," *English Historical Review*, vol. xi, p. 20.

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the stoppage of the carrying and fishing trades on which the Dutch depended. In the United Provinces all the signs of an acute financial and economic crisis were visible. Business in all branches was at a standstill. It was estimated that 1500 houses in Amsterdam were vacant;[1] and it is reported that one manufacturer of lace, who before the war had employed three to four hundred hands, had now only three people in his factory.[2] The economically advantageous position of England, more than the skill and valor of Blake and Monk, gave England the victory in this war.

Negotiations for peace were begun soon after the outbreak of hostilities. In 1653 Cromwell said to the Dutch peace commissioners that

> the interests of both nations consisted in the welfare of commerce and navigation . . . The world was wide enough for both; if the two peoples could only thoroughly well understand each other, their countries would become the markets of the world.[3]

Somewhat later, a proposal was made indirectly by Cromwell, which shows clearly how well he understood that England's greatness must be based on colonial and commercial expansion. It was suggested that an offensive and defensive alliance be formed between the Dutch and English republics. To this alliance, Denmark, Sweden, the Protestant states of Germany and even France — provided the French Protestants should enjoy freedom of conscience — might be admitted. Especial privileges were to be granted to Dutch citizens in England and *vice versa*. For instance, Dutch citizens might even hold office in England, and English citizens likewise in the United Provinces. There were to be no commercial restrictions between the two countries, and the fisheries were to be free and open. As regards trade with the Indies in the East and in the West, a peculiar arrangement was proposed. All Asiatic trade was to be a Dutch monopoly; and, in addition,

[1] Geddes, John de Witt, p. 277; *cf.* also p. 241 *et seq.*
[2] Pontalis, *op. cit.*, I, 141.
[3] Gardiner, Commonwealth and Protectorate, II, 343-344.

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Brazil was to be reconquered from Portugal and handed over to the United Provinces. Spain, on the other hand, was to be ousted from her American possessions, which were to be given to England, with a monopoly of all the American trade excepting that of Brazil.[1] This proposal, as well as the project of complete political amalgamation which had been revived in this year, came to nothing. These projects of political union were not mere alliances for the sake of the "Protestant Interest," as contemporaries and modern historians consider them. All these proposals emanated from a vague recognition on the part of England that the Dutch blocked her path to greatness on nearly all sides and that, unless the Dutch were willing voluntarily to sacrifice some economic advantages, the matter could be settled only by the economic survival of one nation or the other. War "*à l'outrance*," or the closest possible union, was the only solution of the situation.

In 1654 peace was finally concluded by the two contending countries. It has been said, and it seems to be unquestionably true, that Cromwell disapproved of the Dutch war, on account of the injury done thereby to the "Protestant Interest."[2] In the terms imposed on the Dutch, however, there is no sign of soft-heartedness on Cromwell's part. In no respect did he abate England's pretensions; and the treaty,[3] though it left a majority of the questions at issue open for future settlement, shows how completely prostrated the Dutch Republic was by the war. It was provided that the Dutch ships should salute English men-of-war in British seas and that justice should be meted out to those responsible for the massacre at Amboyna. The United Provinces agreed to indemnify the English merchants for the losses incurred through the detention of their ships and the seizure of the goods therein at the hands of Denmark during the war. Commissioners, to be named by both sides, were to meet to inquire into the injuries and losses suffered in the East Indies and in other waters by both

[1] Thurloe, State Papers, vol. ii, pp. 125–126.
[2] Letters and Speeches, vol. ii, p. 322.
[3] Dumont, vol. vi, pt. ii, pp. 74–77; Jenkinson, vol. i, pp. 44 *et seq.*

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ELECTRONIC REPRODUCTION PROHIBITED

Dutch and English at each other's hands, and to appraise the damage done. These commissioners finally decided that Pularoon was to be restored to England and that the Dutch East India Company was to pay £85,000 to its English rival and £3615[1] to the descendants of those killed at Amboyna. This treaty is important more in what it omits than in what it contains. All of England's pretensions embodied in the Navigation Acts were tacitly assented to.

In the same year England also concluded a treaty of peace with Denmark,[2] by which it was provided that the latter should give to the Dutch no advantage over England in the matter of tolls and duties. Cromwell brought out the important features of this peace in his speech before Parliament in the fall of 1654.

> You have a peace with the Danes, . . . and an honourable Satisfaction to your Merchants' Ships, not only to their content but to their rejoicing. I believe you will easily know it is so, — "an honourable peace." You have the Sound open, which used to be obstructed. That which was and is the strength of the nation, the shipping, will now be supplied thence. And whereas you were glad to have anything of that kind at second hand, you have now all manner of commerce there, and at as much freedom as the Dutch themselves, "who used to be the carriers and venders of it to us," and at the same rates and tolls.[3]

At about the same time also a treaty was concluded with Portugal, which legalized the position England had acquired by force of arms on the coast of the Indian peninsula. As already pointed out, the English and Portuguese had come into violent conflict in the East; and out of this conflict England emerged as victor. But this victory had never been acknowledged by the Portuguese government.[4] To the irritation produced by this long standing conflict was added, during the course of the Civil War, the resentment of the Commonwealth government

[1] Dumont, vol. ii, part ii, pp. 88–92.

[2] Dumont, vol. vi, part ii, p. 92. The Redemption Treaty had already been abrogated by the Dutch and Danish governments in 1653. — *Ibid.*, part ii, p. 68.

[3] Carlyle, Letters and Speeches of Cromwell (London, 1885), II, 323.

[4] See Hunter, II, 57, 62.

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at the reception of the Royalist fleet by Portugal. Rupert had been permitted to take refuge in the Tagus, to dispose of his prizes and to refit there.[1] The war which ensued was brought to a close by a treaty which was concluded in 1654 and ratified finally several years later. This treaty[2] allowed the English merchants to trade with the Portuguese possessions in the East and West; and it also provided that, in case the Portuguese government, merchants or Brazil company should find it necessary to hire foreign ships, the preference should be given to those of England.

The year 1654 marked the turning point in the industrial career of the United Provinces. It was the first check in the prosperous career of the Dutch. Not only England, but Portugal also, benefited to their detriment. The Portuguese took advantage of the Dutch difficulties in the English war to recapture Brazil. Henceforth the Dutch had to be content to refrain from commercial expansion in the West and had to devote all their energies to keeping their possessions in the East. And here the monopoly, which the Dutch had enforced with arrogance and cruelty, was abolished by the treaty with England. This treaty recognized England's rights in the East, checked the all-absorbing progress of Dutch commerce and ultimately gave England a free hand in the Indian peninsula. In the North the Dutch attempt to monopolize the Baltic trade in naval stores was completely frustrated. On the other hand, England abandoned none of her claims—the dominion of the seas, the right to seize an enemy's goods in neutral ships, the right to a monopoly of trade with her American colonies and, above all, the right to build up her mercantile marine by legislation hostile to the interests of the Dutch.

[1] Firth, Cromwell, p. 308; Gardiner, Commonwealth and Protectorate, I, 202, 330–333, II, 383; Ranke, III, 64–65.

[2] Dumont, vol. vi, part ii, pp. 82–85; Jenkinson, I, 71 *et seq.*

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II. *The West-Indian Project.*

The Peace of Westphalia in 1648 brought peace to the central portion of Europe, but left Spain and France — enemies ever since the days of Charles V and Francis I — still at war. France, hampered by the recrudescence of the typically feudal movement under Condé, was unable to bring the war to a successful conclusion. The contest was practically one long-drawn battle. Both nations were eager for the support of Cromwell, in order to gain the upper hand. Spain had early recognized the Commonwealth government and had aided Blake in his warfare against Rupert's fleet.[1] The relations between England and Spain, the old-time Elizabethan enemies, were friendly, if not cordial. They could not, however, long remain so; since, in addition to his strong anti-Catholic feelings, Cromwell had inherited the antipathy to Spain which characterized the age of Raleigh and Drake.[2] Besides, there were certain specific grievances against Spain; for the Spaniards, relying on the bull of Alexander VI, regarded the English in America as intruders.[3] Spanish forces had attacked and destroyed several English settlements in the lesser West Indian islands.[4] In general, wherever they met the English in the Western hemisphere, they treated them as enemies, "though sayling to and from their owne plantations."[5] Furthermore, England complained that her merchants residing in Spain were subject to the pains and penalties of the Inquisition.

With France, matters stood otherwise. The court party and the government naturally sympathized with Charles I, as the husband of a French royal princess. This sympathy was shown in the assistance given to the Cavalier navy.[6] Reprisals

[1] Gardiner, Commonwealth and Protectorate, I, 341.

[2] Carlyle, Letters and Speeches, III, 120.

[3] The Narrative of General Venables (Ed. by C. H. Firth), p. 109. See also Milton's defense of Cromwell, in Masson, Milton, vol. v, pp. 241–243.

[4] Thurloe, State Papers, III, 59–61; Gardiner, Commonwealth and Protectorate, III, 402–403; Firth, Cromwell, pp. 398–399; A. Hassall, in Social England, IV, 262; Ranke, *op. cit.*, VII, 157; C. P. Lucas, A Historical Geography of the British Colonies, II, 138. [5] Thurloe, State Papers, I, 759–763; *cf.* also Ludlow, Memoirs, I, 384. [6] Firth, Cromwell, p. 309.

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were undertaken by the English government, and the result was a condition of affairs such as the modern mind can hardly realize. While the two countries were nominally at peace, a fierce guerrilla warfare was carried on at sea,[1] not only by privateers but also by men-of-war.[2] Reprisals were undertaken by both governments, and war, in all but name, existed between France and England. In one month, in 1654, we hear of twenty-eight French prizes taken by the English.[3] In the preceding year, eight French ships of war had been attacked by the English.[4] The French ambassador in the United Provinces described this condition of affairs very naïvely and euphemistically, saying: "It is not a war, nor is it any hatred, but these differences between us and England may rather be named Disorders in the commerce of particular persons."[5]

Meanwhile both Spain and France were negotiating for an English alliance. In 1652, Cardenas, the Spanish ambassador in England, held up the prospect of acquiring Calais as an inducement.[6] At the same time, France offered to surrender Dunkirk, although in the preceding year Mazarin had indignantly rejected the idea.[7] This change was due to the fear that Cromwell might form an alliance with Spain[8] and that he might interfere in French politics by lending assistance to Condé, whose agents were actively soliciting English assistance. The scheme to surrender Dunkirk to England at this time came to nothing. The place was besieged by the Spaniards, but Mazarin thought he could relieve it and could get the English alliance on better terms. Cromwell was, however, no man to be trifled with. Disgusted at Mazarin's tortuous policy, Blake, acting under instructions, seized and destroyed

[1] James B. Perkins, France under Mazarin, vol. ii, pp. 287–288.

[2] Gardiner, Commonwealth and Protectorate, I, 200; II, 131, n.; Whitelocke, Memorials, p. 558.

[3] Whitelocke, Memorials, pp. 588, 589.

[4] *Ibid.*, p. 547.

[5] *Ibid.*, p. 569.

[6] Gardiner, Cromwell and Mazarin in 1652, *English Historical Review*, XI, 480.

[7] Documents inédits sur l'histoire de France, Lettres du Cardinal de Mazarin (Ed. by Chéruel), vol. iv, pp. 575, 576. On Dec. 26, 1651, Mazarin wrote to D'Estrades: "On m'a mandé que les Anglois voudroient bien traicter de Dunkerque; mais je vous crois trop bon François, quelque advantage que vous y trouvassiez, pour recevoir une semblable proposition."

[8] *Ibid.*, vol. v, pp. 91–93, 95.

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the French ships sent to the relief of Dunkirk.[1] This was a part of the unofficial war waged by France and England. Mazarin was dismayed by the unexpected action of the English government and complained that it was not customary to make reprisals on men-of-war.[2]

During the course of these negotiations, the Dutch war had broken out, and there was little prospect that England would enter into a continental alliance. In 1654, however, the negotiations were again taken up with vigor. Baron de Baas, the representative of France in England for this special object, was instructed to bring to the attention of Cromwell the feasibility of attacking Spain in the West Indies and to offer him French help in capturing Dunkirk and Mardyke from the Spaniards.[3] This idea of seizing the West Indies from Spain was continually pressed on Cromwell by Mazarin. But the advantages of a French or Spanish alliance were not sufficiently clear to Cromwell. He had little to gain from an alliance with either country, and his evident intention was not to embroil England in the continental conflict unless the advantages in so doing were patent. He leaned at one time toward the Spanish, at another time toward the French alliance. The question at issue seemed to be, which alliance would redound more to England's material greatness.[4] In 1654, having concluded the Dutch war, he proceeded, pending the negotiations for alliance, to seize colonies from both France and Spain.

During the course of the Dutch war, an expedition had been planned, under the command of Major Robert Sedgwick and Captain John Leverett, to attack the Dutch settlements in New York. Massachusetts was unwilling to aid this expedition and delayed its departure.[5] When the expedition was about ready

[1] Gardiner, "Cromwell and Mazarin in 1652," *English Historical Review*, XI, 509; Documents inédits, V, 265, 310, 312, 313. For acts of retaliation on the part of France, see Verney Papers, Seventh Report, part i, Historical Manuscripts Commission, p. 458.

[2] Documents inédits, V, 306. [3] *Ibid.*, VI, 157; also 319–140 and 164.

[4] *Cf.* Bowman, The Protestant Interest in Cromwell's Foreign Relations, p. 23.

[5] Thurloe, State Papers, I, 565; II, 418–420; Calendar of State Papers, Colonial Series, 1675–1676 (Ed. by Sainsbury), p. 89.

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to start, news arrived of the conclusion of peace with the Dutch. As unofficial war existed between France and England, Sedgwick had, as was customary, instructions to seize French ships.[1] He therefore determined to use his force, originally designed against the Dutch, "in rangeing the coast against the French, who use tradinge and fishinge heareaboute."[2] The result of this expedition was the capture of the forts, St. John, Port Royal and Penobscot, and the addition of Nova Scotia to the English colonial empire.[3] The French ambassador, Bordeaux, protested against this high-handed action,[4] but to no avail. It was rumored that he would be recalled; but Mazarin needed the English alliance too much to go to war on this ground,[5] and Cromwell had no intention of ever giving up an inch of territory over which the English flag had once floated. He wrote a personal letter to Leverett, instructing him to defend and keep the territory seized;[6] and as long as Cromwell lived, Nova Scotia — or Acadia, as it was then called — remained an English possession.[7]

This happened while England and France were negotiating on the basis of an alliance. In the same year, while similar negotiations were under way with Spain, the comprehensive scheme of an attack on the Spanish American colonies was planned. This project arose from the underlying conviction that the most valuable possessions in the New World were held by Spain — a conviction that was the inevitable consequence of mercantilist theories. Spain, holding the greater

[1] Thurloe, State Papers, II, 425. The admiral in command of the West Indian expedition also had instructions to attack French vessels. — Granville Penn, Memorials of Sir William Penn, II, 25.

[2] Thurloe, II, 418.

[3] *Ibid.*, II, 582; Cal. State Papers, Colonial Series, 1675–1676, pp. 88–90.

[4] Gardiner, Commonwealth and Protectorate, III, 389.

[5] Thurloe, II, 689. A Letter of Intelligence from Paris to Thurloe in October, 1654, says: "The report of Canada continues; and if it be certain the English took it, they will recal the ambassador Bordeaux, as they vaunt at court; but these are bugbears. Mazarin desires nothing more on Earth than peace with the Protector, without which he thinks himself always in danger."

[6] Carlyle, Cromwell, III, 405. This letter is also in Publications Massachusetts Historical Society, series iii, vol. vii, p. 121.

[7] Justin Winsor, Narrative and Critical History, IV, 145; *cf.* also Gardiner, Commonwealth and Protectorate, III, 423.

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part of the West Indies and of Central America and South America, was deemed to possess all that was valuable in the New World. Tropical colonization, armed commerce with semi-civilized people, the acquisition of exotic products and, above all, the possession of mines appealed to the mercantilists more than did settlements on barren coasts such as those of New England. The advice of Bacon, not to trust in the uncertain hope of mines,[1] was not heeded in the Cromwellian age. In addition to the then current economic ideas, a strong factor in inducing Cromwell to undertake this expedition against the Spanish colonies was his need of money.[2] For Cromwell suffered from an inadequate revenue just as much as did the Stuarts, and in a sense even more so, as his schemes were more ambitious. His financial troubles tended to make him dependent on Parliament, and parliamentary control was as irksome to him as it had been to Charles I. The attack on Spain's colonies and the acquisition of their silver mines promised a ready solution of this difficulty. In addition, this attack on Spain corresponded to Cromwell's strong anti-Catholic views. It was a blow to the "Roman Babylon . . . of which the Spaniard is the great underpropper."[3] In fighting Spain, Cromwell sincerely believed that he was fighting "the Lord's battles." But there can be no doubt that these battles would never have been fought, if victory in them would not have added to England's wealth and greatness.[4] The Anglo-Saxon mind demands some justification for its actions. It occasionally invents this justification, but always sincerely believes in it. And Cromwell, as Mr. Gardiner has aptly said, is "the most typical Englishman of all time."[5] Economic motives were the cause, religious motives the justification, of the West Indian project.

[1] Bacon, Works (Cambridge, 1863), XII, 196.

[2] *Cf.* Thurloe, State Papers, II, 391, 392, 414.

[3] Carlyle, Cromwell, III, 88; Thurloe, IV, 131.

[4] Clarke Papers, III, 203. We learn that in the council it was debated whether the force released by the cessation of the Dutch war should be turned against France or against Spain. It was decided to attack Spain as the great enemy of Protestantism and because "the attemptinge the Spaniard the most profitable of any in the world, . . . his territories very great and may well admitt a sound losse."

[5] Gardiner, Cromwell's Place in History, p. 116.

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The French government had been continually urging on Cromwell the advisability of attacking the Spanish colonies, laying stress on the weakness of the Spanish defenses and on the value of these possessions to England.[1] The principal English adviser of the expedition was one Thomas Gage,[2] author of *The English-American, or A New Survey of the West Indies*, published in 1648. This book gave "such an account of the feebleness, as well as of the wealth, of the Spaniards in those parts, as made him [Cromwell] conclude that it would be both a great and a easy conquest to seize on their dominions."[3] The prospect of great wealth gained by an attack on Spain was held up as inducement to Cromwell.[4] In 1654, Gage presented a memorial to the government, summarizing the views given more at length in his book.[5] He claimed that the silver mines in America were Spain's pillar of strength and he advised an attack on the Spanish colonies, which he alleged were poorly fortified and defended. The justification for such an attack he found in Spain's numerous attacks on the English West Indian islands. His plan was a comprehensive one — to drive Spain out of the West Indian islands and out of Central and South America. These views were supported by Colonel Modyford, who was identified with Barbadoes, and was consequently supposed to be well acquainted with the position of affairs in America.[6]

The preparations for the enterprise were careful and deliberate.[7] The geography of the Gulf of Mexico was diligently

[1] Loménie de Brienne, one of the contemporary French ministers, sums up the course of French diplomacy in this matter. He writes: "Nous nous prévalûmes du désir de cette nation d'avoir un pied dans les Indes, et, lui faisant voir la facilité quelle avoit d'y réussir, nous lui fîmes oublier l'étroite amitié dans laquelle elle avoit vécu avec les Espagnols. Nous insinuâmes que l'espérance d'un bon commerce ne devoit pas empêcher les Anglois de songer à se rendre maîtres des richesses des Indes occidentales." — Mémoires du Comte de Brienne, pp. 149–150 in the Nouvelle Collection des Mémoires (Ed. by Michaud and Poujoulat).

[2] The Memoirs of Edmund Ludlow (Ed. by C. H. Firth), I, 417; Whitelocke, Memorials, p. 602. [3] Burnet, History of My Own Time (Ed. by Airy), I, 134–135.

[4] Frank Strong, "Causes of Cromwell's West-Indian Expedition," *American Historical Review*, IV, 233–235.

[5] Thurloe, III, 59–61. [6] *Ibid.*, III, 62.

[7] Already in January, 1654, "the Protector advised about sending a Fleet to the West-Indies." — Whitelocke, Memorials, p. 592.

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studied, and pilots who had knowledge of these waters were consulted.[1] Cromwell himself was one day surprised, intently studying a map of the Gulf of Mexico and measuring distances thereon.[2] The scope of the attack was to be a broad one. It was the intention of Cromwell to seize all the Spanish possessions in the New World. As he himself wrote: "We thinke, and it is much designed amongst us, to strive with the Spanyard for the mastery of all those seas."[3] In the debate in the council preceding the expedition, it was discussed whether it would be advisable to make only a beginning this year—"an entrance for a future carrienge the whole," or "to make a thorough worke and putt for all this summer."[4] The project in general was merely a reversion to the idea contained in the project of alliance which Cromwell had offered to the Dutch in the preceding year. Then, as now, Spain was to be driven from America. Not only were the rich islands of Hispaniola and Cuba to be seized, but Mexico and all the possessions on the mainland were to be taken.[5] A vast extension of England's colonial empire was planned, and at the same time Spain was to be deprived of her "pillar of strength"—the American mines.

It is not necessary to describe the fortunes of this carefully prepared expedition. Cromwell was misled as to the poor condition of the Spanish defenses. The English were defeated at Hispaniola, and the sole result of the vast scheme was the acquisition of Jamaica.

The scheme, as has already been pointed out, bears the strong imprint of mercantilistic theories, according to which colonies like New England were deemed of no value to the mother country. Hence, one part of the design was to people the colonies acquired from Spain with settlers from New England.[6] Thinking that New England, on account of its harsh climate, could be only a temporary refuge for the Puritans,

[1] Thurloe, II, 250, 391–392.
[2] Burnet, History of My Own Time, I, 135.
[3] Thurloe, IV, 633–634; Carlyle, III, 90–93.
[4] Clarke Papers, III, 204.
[5] Venables' Narrative, p. 111.
[6] *Cf.* Clarke Papers, III, 205.

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Cromwell planned "a more or less general removal of New England people to Jamaica."[1] The attempt was made,[2] but met with serious opposition, and came to nothing.[3]

Seeley can find in the West Indian project "no trace of any profound calculation." Of Cromwell's intentions in this matter he says: "Notions of trade seem at most but secondary in his mind, and deep plans foreign to his nature. . . . Accordingly, his attack upon St. Domingo seems to have had no remote object."[4] This view is based on a lack of knowledge of the facts. As will be readily seen from the foregoing, the fundamental motives for the expedition were economic and there was profound calculation. It had a very remote object — the extension of the English flag over all of Spanish America. It did not accomplish this, and the expedition was, from the standpoint of the day, a heartrending failure. It merely added Jamaica, a practically uninhabited and seemingly worthless island, to the English colonies. Yet from the historical standpoint the expedition was a success. As Ranke has well said: "In the very heart of the Spanish colonies, an English one arose, which first gave their value to the other West Indian possessions of England."[5]

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[1] Frank Strong, "A Forgotten Danger to the New England Colonies," Report of the American Historical Association, 1898, pp. 89, 91–92; Thurloe, IV, 130.

[2] Calendar of State Papers, Colonial Series, 1675–1676, p. 101; Thurloe, IV, 634; Carlyle, III, 89–93; Memorials of Sir William Penn, II, 585–589.

[3] Thurloe, V, 6–7, 510. Egerton (*op. cit.*, p. 61) has suggested that the desire to transplant the New Englanders was to lessen the independent spirit of these colonies and to hold them more firmly as English possessions. The suggestion is interesting, but the more probable explanation of the design lies in the prevailing economic doctrines, according to which the mother country must suffer economically through such colonies as New England.

[4] Seeley, *op. cit.*, II, 75.

[5] Ranke, *op. cit.*, III, 200.

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THE ECONOMIC INTERPRETATION OF HISTORY. I.

TO the student of the social sciences it is interesting to observe the process by which, in one respect at least, we are drifting back to the position of bygone ages. Although Aristotle pointed out the essential interrelation of politics, ethics and economics, modern thought has successfully vindicated the claims of these disciplines, as well as of others, such as jurisprudence and the various divisions of public law, to be considered separate sciences. For a long time, however, to the common detriment of all, the independence of each was so emphasized and exaggerated as to create the serious danger of forgetting that they are only constituent parts of a larger whole. The tendency of recent thought has been to accentuate the relations rather than the differences, and to explain the social institutions which form the bases of the separate sciences in the light rather of a synthesis than of an analysis. This method has been applied to the record of the past, as well as to the facts of the present; the conception of history has been broadened until it is now well recognized that political history is only one phase of that wider activity which includes all the phenomena of social life. If the term "politics" is used in the common but narrow sense of constitutional and diplomatic relations, then to repeat the familiar dictum, "History is past politics," is to utter a half-truth, in lamentable disregard of these newer ideas.

While, however, it is now conceded that the history of mankind is the history of man in society, and therefore social history in its broadest sense, the question has arisen as to the fundamental causes of this social development — the reason of these great changes in human thought and human life which form the conditions of progress. No more profound and far-reaching question can occupy our attention; for upon the correct answer depends our whole attitude toward life itself. It is

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the supreme problem not only to the scientist, but to the practical man as well. Of this problem one solution has been offered which during the past few decades has been engaging the lively attention of thinkers not alone in Germany, where the theory originated, but in Italy, Russia and, to some extent, in England and France. The echoes of the controversy have scarcely reached our shores; but a movement of thought at once so bold and so profound cannot fail to spread to the uttermost limits of scientific thought and to evoke a discussion adequate to the nature of the problem and the character of the solution.

We may state the thesis succinctly as follows: The existence of man depends upon his ability to sustain himself; the economic life is therefore the fundamental condition of all life. Since human life, however, is the life of man in society, individual existence moves within the framework of the social structure and is modified by it. What the conditions of maintenance are to the individual, the similar relations of production and consumption are to the community. To economic causes, therefore, must be traced in last instance those transformations in the structure of society which themselves condition the relations of social classes and the various manifestations of social life.

This doctrine is often called "historical materialism," or the "materialistic interpretation of history." Such terms are, however, lacking in precision. If by materialism is meant the tracing of all changes to material causes, the biological view of history is also materialistic. Again, the theory which ascribes all changes in society to the influence of climate or to the character of the fauna and flora is materialistic, and yet has little in common with the doctrine here discussed. The doctrine we have to deal with is not only materialistic, but also economic in character; and the better phrase is not the "materialistic interpretation," but the "economic interpretation" of history.

In the following pages an attempt will be made to explain the genesis and development of the doctrine, to study some of the applications made by recent thinkers, to examine the objections that may be advanced and, finally, to estimate the true import and value of the theory for modern science.

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I.

Few of the leading writers of the eighteenth or the first half of the nineteenth century devoted much attention to the problem of historical causation. The historians were for the most part content to describe the facts of political and diplomatic history; and, when they sought for anything more than the most obvious explanation of the facts, they generally took recourse to the "great man" theory or to the vague doctrine of the "genius of the age." Even the Nestor of modern historical writing, Ranke, attempted scarcely more than to unravel the tangled skein of international complications by showing the influence of foreign politics upon national growth.

While most of the historians gave evidence of only a slight philosophical equipment, the philosophers presented a "philosophy of history" which sometimes showed scarcely more familiarity with history. That Rousseau was not a profound historical scholar, is to put it mildly. Others, like Lessing in his *Education of Humanity*[1] and Herder in his *Ideas on the Philosophy of History*,[2] were too much under the domination of the theistic conception to give much impetus to a newer movement of thought, even though Herder in Germany, like Ferguson[3] in Scotland, may be called in some respects a forerunner of modern anthropological investigations. Huxley, as well as many of the German writers,[4] has pointed out that Kant in his *Idea of a Universal History*[5] anticipated some of the modern doctrines as to the evolution of society; but even Kant was not sufficiently emancipated from the theology of the age to take a strictly scientific view of the subject. With Hegel's *Philosophy of History* we reach the high-water mark of the "idealistic" interpretation; but the Hegelian conception of the "spirit of history" has shown itself at once too subtle and too jejune for general acceptance.

[1] Die Erziehung des Menschengeschlechts.
[2] Ideen zur Philosophie der Geschichte der Menschheit.
[3] Essay on the History of Civil Society (1767).
[4] Woltmann, Der historische Materialismus (1900), pp. 17–21.
[5] Idee zu einer allgemeinen Geschichte in weltbürgerlicher Absicht (1784).

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A second but less comprehensive attempt to interpret historical growth in terms of thought and feeling was made by those who maintained that religion is the keynote of progress. That each of the five great religions has exerted a profound influence on human development is indubitable — Judaism typifying the idea of duty; Confucianism, of order; Mohammedanism, of justice; Buddhism, of patience and Christianity, of love. But, entirely apart from the fact that this explanation overlooks the possibility of regarding religion as a product rather than a cause, no light is thrown on the question why the retention of the same religion is often compatible with the most radical changes in the character and condition of its devotees. The religious interpretation of history, even in the modified form of Mr. Benjamin Kidd's theory, has found but few adherents.

A third explanation, which can be traced to Aristotle and which has met with some favor among publicists, might be called the political interpretation of history. It holds, substantially, that throughout all history there can be discerned a definite movement from monarchy to aristocracy, from aristocracy to democracy, and that there is a constant progress from absolutism to freedom, both in idea and in institution. But very many philosophers, including Aristotle himself, have pointed out that democracy might lead to tyranny; and modern anthropology has tended to discredit the existence of the first alleged step. Above all, it has been repeatedly shown that political change is not a primary, but a secondary phenomenon; and that to erect into a universal cause what is itself a result is to put the cart before the horse.

With the failure of all these attempts of a more or less idealistic nature, the way was prepared for an interpretation of history which would look to physical, rather than to psychical, forces; or rather which would explain how the psychical forces, into which all social movement may be analyzed, are themselves conditioned by the physical environment. The name with which this doctrine is associated is that of Buckle.

The theory of the predominant influence of the external world on human affairs can be traced to many writers of the eighteenth

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century, of whom Vico[1] and Montesquieu[2] are easily the most famous.[3] Buckle himself had no small opinion of Montesquieu's merits. He tells us[4] that Montesquieu

> knew what no historian before him had even suspected, that in the great march of human affairs, individual peculiarities count for nothing. . . . He effected a complete separation between biography and history, and taught historians to study, not the peculiarities of individual character, but the general aspect of the society in which the peculiarities appeared.

Furthermore, we are told, Montesquieu

> was the first who, in an inquiry into the relations between the social conditions of a country and its jurisprudence, called in the aid of physical knowledge in order to ascertain how the character of any given civilization is modified by the action of the external world.

What Montesquieu, however, stated aphoristically and on the basis of the imperfect physical science of the day, Buckle first worked out philosophically and with such wealth of illustration that he is properly regarded as the real creator of the doctrine. In his celebrated second chapter, entitled "The Influence of Physical Laws," Buckle analyzed the effects of climate, food and soil upon social improvement and its basis, the accumulation of wealth. Buckle, it is true, as we have been lately reminded,[5] does not claim that all history is to be interpreted in the light of external causes alone. He does, indeed, tell us that in early society the history of wealth depends entirely on soil and climate; but he is careful to add that in a more advanced state of society there are other circumstances which possess an equal, and

[1] In his Principii di una scienza nuova d' intorno alla comune natura delle nazioni (1725). As to Vico, see Huth, Life of Buckle, I, 233 *et seq.* Buckle says of Vico that, "though his Scienza Nuova contains the most profound views on ancient history, they are glimpses of truth rather than a systematic investigation of any one period."

[2] In his Esprit des Lois.

[3] In a complete catalogue of writers who in some way influenced Buckle there ought to be included not only Holbach, Helvetius, and Cabanis, but for the early period Bodin, with his theory of climates, and still farther back even Aristotle.

[4] History of Civilization in England, 1857, pt. ii, ch. vi (pp. 316–317 of edition of 1873).

[5] By Robertson, Buckle and his Critics (1895).

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sometimes a superior, influence.[1] In fact, in a later chapter he maintains that "the advance of European civilization is characterized by a diminishing influence of physical laws and an increasing influence of mental laws"; and he concludes that if, as he has shown, "the measure of civilization is the triumph of the mind over external agents, it becomes clear that of the two classes of laws which regulate the progress of mankind, the mental class is more important than the physical."[2] At the end of his general analysis he even goes so far as to maintain that

> we have found reason to believe that the growth of European civilization is solely due to the progress of knowledge, and that the progress of knowledge depends on the number of truths which the human intellect discovers, and on the extent to which they are diffused.[3]

While it is clear, therefore, that Buckle was by no means so extreme as some of his critics would have us believe, it is none the less probable that his name will remain associated with the doctrine of physical environment. For it was he, after all, who most forcibly and eloquently called attention to the importance of the physical factors and to the influence that they have exerted in moulding national character and social life. Since his time much more has been done, not only in studying, as Buckle himself did, the immediate influence of climate and soil,[4] but also in explaining the allied field of the effect of the fauna and the flora on social development. The subject of the domestication of animals, for instance, and its profound effect on human progress has not only been investigated by a number of recent students,[5] but has been made the very basis of the explanation of early American civilization by one of the most brilliant and

[1] History of Civilization, I, 44.

[2] *Ibid.*, pp. 156, 157.

[3] *Ibid.*, p. 288.

[4] One of the best known but most uncritical representatives of this school is Grant Allen, especially in his article "Nation Making" in the *Gentleman's Magazine*, 1873, reprinted in the *Popular Science Monthly* of the same year.

[5] Especially E. Hahn, Die Hausthiere und ihre Beziehung zur Wirtschaft des Menschen (1896).

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most learned of recent historians.[1] A Russian scholar[2] has shown in detail the connection between the great rivers and the progress of humanity, and the whole modern study of economic geography is but an expansion on broader lines of the same idea.

Buckle, however, devoted most of his attention to the influence of physical forces on the production of the food supply. With the difficulties of the problem of distribution, which he confesses are of greater importance, he declares himself unable to grapple. An exception, indeed, is to be made in the case of "a very early stage of society," where Buckle thinks he can prove that "the distribution of wealth is, like its creation, governed entirely by physical laws."[3] His suggestive, but not very successful, attempt to prove this point, which rests upon an acceptance of the one fundamental error of the classical economists — the wages-fund doctrine — can here only be mentioned.[4] It is, however, important to emphasize the fact that, with this one exception, Buckle makes no endeavor to throw any light on the connection between physical environment and the distribution of wealth; for distribution, he tells us, depends on "circumstances of great complexity, which it is not necessary here to examine," and of which, as he adds in a note, "many are still unknown."[5]

[1] Payne, History of the New World called America; especially vol. i, bk. ii. All this was, however, substantially pointed out by Morgan twenty years earlier in his Ancient Society, p. 24. For Morgan, see the second article of this series.

[2] Metchnikoff, La Civilisation et les grandes fleuves historiques. Préface d'Elisée Réclus. Paris, 1889.

[3] Civilization in England, I, 52.

[4] Briefly put, the argument is as follows: The two great constituents of food are carbon and oxygen; the colder the country, the more highly carbonized must be the food; nitrogenous foods are less costly than carbonaceous ones. Wages depend on population, population on the food supply; hence the tendency for wages in hot countries is to be low, in cold countries to be high. Finally, wages and profits vary in inverse proportions; or, as he puts it elsewhere, if rent and interest are high, wages are low. Hence the great differentiation of rural classes in hot countries.

[5] *Ibid.*, I, 51. It is amusing to note that the only law which Buckle himself accepts — "the great law of the ratio between the cost of labor and the profits of stock" — is precisely the one which, in its original form, has been discredited by modern economic research. Notwithstanding this fact, Mr. Robertson is so loyal to his hero that he calls it "one of those generalisations by which Buckle really illuminates history." — Robertson, Buckle and his Critics, p. 49.

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II.

The explanation which Buckle made no attempt to give had been advanced more than a decade before by another writer who was destined to become far more famous and influential. Karl Marx enjoyed some qualifications for the task which were denied to Buckle. Buckle was, indeed, well abreast of the foreign, as well as the English, literature on history and natural science; but his economic views were almost entirely in accord with those of the prevalent English school. These principles so completely lacked the evolutionary point of view as to preclude any historical treatment of history. Karl Marx, on the other hand, not only possessed the philosophical and scientific equipment of a German university graduate, but found himself in direct and unqualified opposition to the teachings of the professional economists. While Buckle contented himself with pointing out how physical forces affect the production of wealth, Marx addressed himself to the larger task of showing how the whole structure of society is modified by the relations of social classes, and how these relations are themselves dependent on antecedent economic changes. In Buckle it was primarily the physicist that created a certain materialistic interpretation of history; in Marx it was the socialist that brought about a very different and specifically economic interpretation of history. In order to understand the genesis of the economic interpretation of history it will be necessary to say a few words about the philosophical antecedents of Marx.

Like most of the young Germans of the thirties, Marx was a firm believer in Hegel. The Hegelian philosophy, however, really contained two separate parts — the dialectical method and the system. The fundamental conception of the Hegelian dialectic is that of process, or development by the union of opposites — a method that advances from notion to notion through negation. In all logic we begin with a half truth; we proceed to its opposite, which is equally false; and we then combine them into a third, which shows that they are equally true, when considered as necessary constituents of the whole.[1]

[1] Bonar, Philosophy and Political Economy, p. 300; and Schwegler, History of Philosophy translated by Stirling (5th ed., 1875), p. 324.

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This idea of process, or development, Hegel applied to his celebrated statement: "All that is real is reasonable; all that is reasonable is real." Interpreted in one way, this would mean fatalism, or optimistic conservatism. But according to Hegel everthing that exists is by no means real. Only that is real which in the course of its development shows itself to be necessary. When it is no longer necessary, it loses its reality. As some of his followers pointed out, the French government had become so unnecessary by 1789 that not it, but the Revolution, was real. Hence the original statement turns into the opposite: All that is real becomes in the course of time unreasonable, and is thus from the very outset unreal; all that is reasonable in idea is destined to be realized, even though it may for the moment be utterly unreal. The original statements of the reasonableness of what is real, and of the reality of what is reasonable, blend into the higher statement that all that exists is destined some day to pass out of existence.[1]

The importance of this dialectical method lay in the idea of process — in the realization of the fact that the conclusions of human thought and action are not final. Translated into social and political language, it formed the basis of the aspirations of the liberal and progressive elements in the community. On the other hand, Hegel himself never drew these radical conclusions from his theory because, although in his logic he made it clear that the truth is nothing but the dialectical process itself, he nevertheless posited, as a result of his whole philosophy, the conception of the "absolute idea." Into the mysteries of this absolute idea we are not called upon to penetrate; it is sufficient to point out that, as applied to the domain of social politics, it results in a moderate conservatism. It is in the then existing German state that, according to Hegel, universality and individuality, law and liberty—the highest stage of the universal spirit — find their reconciliation!

The antagonism between the dialectical and the absolute system of Hegel was not at first perceived. Just as both

[1] F. Engels, Ludwig Feuerbach und der Ausgang der klassischen deutschen Philosophie, 1888 (2d ed., 1895), p. 3.

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individualists and socialists to-day claim Adam Smith as the fountain head of their doctrines, so for a time both radicals and conservatives in Germany harked back to Hegel. Toward the end of the thirties the schism became apparent. The Young-Hegelians swore by the dialectical method and landed in radicalism; the orthodox followers remained true to the "absolute idea" and became reactionaries. At first, however, politics was a dangerous field to enter, and the discussion turned on religion. As either Catholicism or Evangelical Protestantism was the state religion in each of the German states, the attack on religion was indirectly political in character, and was recognized as such. Strauss had set the ball rolling in 1835 by his *Life of Jesus*. His assertion of the mythical character of the evangelist accounts led to a famous dispute with Bruno Bauer, who went one step farther and maintained that they were not even myths, but pure fabrications. In this reaction against the foundations of the state religion the Young-Hegelians were practically forced back to the philosophical materialism of England and France in the eighteenth century. But they now recognized the antagonism between their new views and the doctrine of Hegel. While the philosophical materialists had posited nature as the only reality, Hegel regarded the absolute idea — that is, the intellect and its logical process — as the fundamental conception, and nature as only the derivative or the reflex of the absolute idea.

The uncertainty continued until the early forties, when Feuerbach published his *Essence of Christianity*,[1] in which he sought to demolish the idealistic or transcendental basis of all theology. In this work Feuerbach claimed that nature exists independently of philosophy, that there is in reality nothing but nature and man, and that our religious conceptions are a product of ourselves, who again are nothing but a product of nature. Who has not heard of Feuerbach's famous phrase: *Der Mensch ist was er isst* — "Man is what he eats"? Feuerbach at once showed the Young-Hegelians that, important as the Hegelian dialectics may have been, the "absolute idea" was not the basis, but the product.

[1] Das Wesen des Christenthums.

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Feuerbach exerted a profound influence on the thinkers of the day. Curiously enough, however, he also, in the domain of social politics, gave rise to two antagonistic schools. Although in his philosophy a materialist, or rather a "naturalist," there was a decidedly idealistic strain in his ethical doctrine. With him religion is what the etymology of the word implies—the really important thing that binds men together. Of his attempt to erect an idealistic religion on a naturalistic basis, this is not the place to speak.[1] But it is important to point out that his doctrine of love as the basis of all religion led to the so-called "true" or "philosophical" socialism of the forties in Germany. The early socialists had accepted the views of the French reformers, St. Simon and Fourier. Now they asserted that all that was necessary was to apply Feuerbach's "humanism" to social relations, in order to proclaim the speedy regeneration of mankind. The leaders of the "philosophical" socialists, Karl Grün and Moses Hess,[2] for a time dominated the social movement in Germany.

While the superimposed idealism of Feuerbach led to the "philosophical socialism" of the forties, his original and basic naturalism helped to produce in Karl Marx the founder of "scientific socialism." Marx was educated in Hegelianism, and to the end of his days loved to coquet with the Hegelian dialectic. He had become a Young-Hegelian and was deeply influenced by the appearance of Feuerbach's book. This set him thinking. The materialistic idea he accepted as beyond dispute, but he recognized some of its weaknesses. The materialism of the eighteenth century was essentially mechanical and unhistorical. It had developed before science had assumed its modern garb. The watchword of modern science is that of evolution through natural selection. Although this had not yet been proclaimed even by the natural scientists, or at all events had certainly not been applied by any one to social conceptions, the idea was in the air; and, although Marx

[1] *Cf.* Lange, Geschichte des Materialismus, vol. ii (3d ed., 1877), 73–81.

[2] For their views in detail, see George Adler, Die Geschichte der ersten sozialpolitischen Arbeiterbewegung in Deutschland, pp. 83–85.

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was not at first especially well versed in natural science, the naturalism of Feuerbach, combined with the conception of process in the dialectic of Hegel, led him finally to the theory that all social institutions are the result of a growth and that the causes of this growth are to be sought not in any idea, but in the conditions of material existence. In other words, it led him to the economic interpretation of history. He then broke at once with the philosophical or sentimental socialists, and devoted all his time henceforth to the deeper study of economic conditions.

That Marx's analysis of economic conditions led him to scientific socialism is a thing by itself, with which we have here no concern; for that is an economic theory, based upon his doctrines of surplus value and profits, which have been engaging the attention of economists throughout the world. We need to lay stress on Marx's philosophy, rather than on his economics; and his philosophy, as we now know, resulted in his economic interpretation of history. It chanced that he also became a socialist; but his socialism and his philosophy of history are, as we shall see later, really independent. One can be an "economic materialist" and yet remain an extreme individualist. The fact that Marx's economics may be defective has no bearing on the truth or falsity of his philosophy of history.

III.

Let us now proceed to illustrate the development of the new doctrine from the writings of Marx himself. It will be advisable to quote freely, because these earlier works of Marx are little known even in Germany, and are almost unknown outside of Germany.[1] Yet they are of the utmost importance in showing the genesis of an idea which is now one of the storm centres not only of economic and social, but also of philosophical, discussion.

[1] Just as these lines go to the printer, an announcement is made of the impending publication, in three volumes, of the more important of Marx's essays between 1841 and 1850, under the title: Aus dem literarischen Nachlass von Karl Marx, Friedrich Engels und Ferdinand Lassalle. Herausgegeben von Franz Mehring. Gesammelte Schriften von Karl Marx und Friedrich Engels, 1841 bis 1850. Erster Band: Von März, 1841, bis März, 1844. Stuttgart, Dietz, 1901–1902.

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In his earliest essays we see only the radical political reformer. As a young man of twenty-four, he was called in 1842 to the editorship of the *Rheinische Zeitung*, a daily paper started in Cologne by some of the Young-Hegelians who belonged to the radical party. While battling for political reforms Marx had his attention called for the first time to economic questions. He severely criticised the historical school of jurisconsults, because they regarded all existing legal institutions as the necessary, and therefore the wise, result of a long evolution. To their optimistic conservatism Marx opposed the Hegelian idea of liberty. It was not, however, until after the *Rheinische Zeitung* had been suspended by the government in 1843 that Marx went to Paris[1] and became a socialist — influenced largely by St. Simon and Proudhon, and possibly by the celebrated book of Lorenz Stein, which appeared the year before, on the socialistic and communistic movement in France.[2] At Paris, Marx started in 1844, in conjunction with another leader of the Young-Hegelians, Arnold Ruge, the *Deutsch-Französische Jahrbücher*. Here the beginning of the opposition to the French communists is perceptible; for in the introductory editorial we are told that what has saved Germany from "the metaphysical and fantastical ideas of Lamennais, Proudhon, St. Simon and Fourier" is the Hegelian logic.[3] Yet Marx showed the influence of Feuerbach by writing an article in criticism of Hegel's *Philosophy of Law*, in which he sought to prove how theological criticism was now necessarily being replaced by political criticism. Marx, indeed, went a step farther and emphasized the necessity of a revolution of the fourth

[1] In the mean time he published anonymously a violent article on the Prussian censorship, in the Anekdota zur neuesten deutschen Philosophie und Publicistik, von Bruno Bauer, Ludwig Feuerbach, Friederich Köppen, Karl Nauwerk, Arnold Ruge und einigen Ungenannten, 1843. One of these "Ungenannten" was Karl Marx, who wrote under the title of a "Rhinelander." The article may be found in vol. i, pp. 56–88.

[2] It is more than probable, however, that Marx was converted to socialism wholly by the French writers, who themselves exerted so great an influence on Stein. *Cf.* the correspondence of Arnold Ruge, vol. i.

[3] Deutsch-Französische Jahrbücher. Herausgegeben von Arnold Ruge und Karl Marx. Erste und Zweite Lieferung, 1844, p. 8. *Cf.* also: "Uns Deutsche hat . . . von der Willkür und Phantastik das Hegelsche System befreit."

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estate — the proletariat. He was beginning to formulate his ideas on economic questions. "The relation of industry and of the world of wealth in general to the political world is the chief problem of modern times."[1] In another place he tells us that "revolutions need a passive element, a material basis."[2] In a later essay in the same periodical on the "Jewish Question," in which he opposed the views of Bruno Bauer, Marx claims that "we must emancipate ourselves before we can emancipate others."[3] He seeks to show that the importance of the French Revolution consisted in freeing not only the political forces of society, but also the economic basis on which the political superstructure rested.[4] The political change was in a certain sense idealism; but it marked at the same time the materialism of society.[5]

The double number of the *Deutsch-Französische Jahrbücher* was the only one that appeared. Ruge and Marx could not agree in their attitude toward the question of communism. While in Paris, however, Marx formed an intimacy with his lifelong friend, Frederick Engels, whose acquaintance he had originally made while both were working on the editorial staff of the *Rheinische Zeitung*.[6] They now decided to write in common a work against Bruno Bauer, who represented the more speculative wing of the Young-Hegelians. This appeared in 1845 under the title of *The Holy Family*.[7] In this book, written almost entirely by Marx, he shows the strong influence of

[1] "Das Verhältniss der Industrie, überhaupt der Welt des Reichthums zu der politischen Welt ist ein Hauptproblem der modernen Zeit." — *Ibid.*, p. 75.

[2] "Die Revolutionen bedürfen nämlich eines passiven Elementes, einer materiellen Grundlage. . . . Die Theorie wird in einem Volke immer nur so weit verwircklicht als sie die Verwirclichung seiner Bedürfnisse ist." — *Ibid.*, p. 80.

[3] *Ibid.*, p. 184.

[4] "Die politische Emancipation ist zugleich die Auflösung der alten Gesellschaft, auf welcher das dem Volk entfremdete Staatswesen, die Herrschermacht, ruht. Die politische Revolution ist die Revolution der bürgerlichen Gesellschaft." — *Ibid.*, p. 204.

[5] "Allein die Vollendung des Idealismus des Staats war zugleich die Vollendung des Materialismus der bürgerlichen Gesellschaft." — *Ibid.*, p. 205.

[6] Some correspondence of this early period is preserved in "Aus Briefen von Engels an Marx" in *Die neue Zeit*, XIX (1901), ii, pp. 505 *et seq.*

[7] Die heilige Familie oder Kritik der kritischen Kritik. Gegen Bruno Bauer und Consorten. Von Friedrich Engels und Karl Marx. Frankfort a. M., 1845.

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Feuerbach.[1] As he was at that time, however, more interested in opposing the transcendental notions of the other Young-Hegelians in general than in emphasizing the differences between himself and the "sentimental" socialists, it will not surprise us to find him defending Proudhon.[2] Yet even here Marx shows the essentially mechanical nature of the older French materialism, and points out how the philosophic materialism of Helvetius and Holbach led to the socialism of Babœuf and Fourier.[3] Incidentally, Marx calls attention to the economic basis of the French Revolution and points out that the individual of the French Revolution differed from the individual of classic antiquity because his economic and industrial relations were different.[4] Finally, in another passage he asks outright:

Do these gentlemen think that they can understand the first word of history as long as they exclude the relations of man to nature, natural science and industry? Do they believe that they can actually comprehend any epoch without grasping the industry of the period, the immediate methods of production in actual life? . . . Just as they separate the soul from the body, and themselves from the world, so they separate history from natural science and industry, so they find the birthplace of history not in the gross material production on earth, but in the misty cloud formation of heaven.[5]

[1] *Cf.* the enthusiastic description of Feuerbach on p. 139 and the disdainful attitude toward Hegel on p. 126.

[2] "Proudhon's Schrift 'Qu'est-ce que la Propriété' hat dieselbe Bedeutung für die moderne Nationalökonomie, welche Say's [evidently a misprint for Sieyès'] Schrift 'Qu'est-ce que le tiers État' für die moderne Politik hat." — *Ibid.*, p. 36.

[3] "Fourier geht unmittelbar von der Lehre der französischen Materialisten aus. Die Babouvisten waren rohe uncivilisirte Materialisten, aber auch der entwickelte Communismus datirt direkt von dem französischen Materialismus." — *Ibid.*, 207, and the quotations on pp. 209–211. As the volume is extremely scarce, it may be noted that a part of this chapter was reprinted in *Die neue Zeit*, III (1885), 385–395.

[4] In speaking of a placard containing the Declaration of Rights, Marx says: "Eben diese Tabelle proklamirte das Recht eines Menschen, der nicht der Mensch des antiken Gemeinwesens sein kann, so wenig als seine nationalökonomischen und industriellen Verhältnisse die antiken sind." — *Ibid.*, p. 192.

[5] "Oder glaubt die kritische Kritik in der Erkenntniss der geschichtlichen Wirklichkeit auch nur zum Anfang gekommen zu sein, so lange sie das theoretische und praktische Verhältniss des Menschen zur Natur, die Naturwissenschaft und die Industrie, aus der geschichtlichen Bewegung ausschliesst? Oder meint sie irgend eine Periode in der That schon erkannt zu haben, ohne z. B. die Industrie dieser Periode, die unmittelbare Produktionsweise des Lebens selbst,

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Although we find in Marx's early works only these incidental allusions to the doctrine of economic interpretation, we are told by Engels, the literary executor of Marx, that Marx had worked out his theory by 1845.[1] That Engels is quite correct in this is shown not only by the quotations just mentioned, but also by the annotations which Marx made to Feuerbach in 1845.[2] Marx here objects to the old, mechanical materialistic doctrine that men are simply the results of their environment, because it forgets that this environment can itself be changed by man.[3] He also takes exception to Feuerbach's whole view of religion, on the ground that Feuerbach fails to perceive that man is the product of his social relations and that religion itself is a social outgrowth.[4] A fuller statement of his new[5] position, however,

erkannt zu haben? . . . Wie sie das Denken von dem Sinnen, die Seele vom Leibe, sich selbst von der Welt trennt, so trennt sie die Geschichte von der Naturwissenschaft und Industrie, so sieht sie nicht in der grob-materiellen Produktion auf der Erde, sondern in der dunstigen Wolkenbildung am Himmel die Geburtstätte der Geschichte." — *Ibid.*, p. 238.

[1] "The 'manifesto' being our joint production, I consider myself bound to state that the fundamental proposition which forms its nucleus belongs to Marx. That proposition is: that in every historical epoch the prevailing mode of economic production and exchange, and the social organization necessarily following from it, form the basis upon which it is built up, and from which alone can be explained, the political and intellectual history of that epoch; that, consequently, *etc.*, *etc.* . . .

"This proposition, which in my opinion is destined to do for history what Darwin's theory has done for biology, we both had been rapidly approaching for some years before 1845. . . . But when I again met Marx . . . in spring, 1845, he had it already worked out, and put it before me in terms almost as clear as those in which I have stated it here." — Manifesto of the Communist Party, by Marx and Engels. Authorized English translation, edited and annotated by Frederick Engels, 1888, preface, pp. 5, 6. This preface was written in English by Engels, and appeared in German only in subsequent editions.

[2] Published as an appendix to Ludwig Feuerbach und der Ausgang der klassischen deutschen Philosophie. Von Friedrich Engels. Mit Anhang, Karl Marx über Feuerbach, vom Jahre 1845 (1888).

[3] "Die materialistische Lehre, dass die Menschen Produkte der Umstände und der Erziehung sind, vergisst, dass die Umstände eben von den Menschen verändert werden und dass der Erzieher selbst erzogen werden muss." — *Op. cit.*, p. 80.

[4] "Feuerbach löst das religiöse Wesen in das menschliche Wesen auf. Aber das menschliche Wesen ist kein . . . Abstraktum. In seiner Wirklichkeit, ist es das Ensemble der gesellschaftlichen Verhältnisse. . . . Feuerbach sieht nicht, dass das 'religiöse Gemüth' selbst ein gesellschaftliches Produkt ist." — *Ibid.*, p. 81.

[5] Peter von Struve claims that this new position was not occupied by Marx until 1846. *Cf.* his articles, "Zur Entwicklungsgeschichte des wissenschaftlichen

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is found in some recently discovered essays which were written at about that time.[1] These articles, published anonymously in the *Westfälischer Dampfboot*,[2] are of cardinal importance because Marx now for the first time emphasized his disagreement with the "sentimental socialists." In the first series of articles, Marx criticises a German communistic sheet published in New York, which was devoting much attention to the Anti-Rent Riots.[3] Marx discusses the agrarian movement in the United States and tries to show from his new point of view the connection between economic and political phenomena. In a second series of articles [4] he joins issue with Grün and Hess, the chief advocates of philosophical socialism, and ridicules their failure to perceive that an alteration in methods of production brings about changes in the whole social life.[5]

By 1847[6] Marx had made a somewhat deeper study of

Sozialismus," in *Die neue Zeit*, XV (1897), i, 68, and ii, 228, 269. Struve, however, seems to lay too little stress on the points emphasized above. *Cf.* also the article of Kampffmeyer, "Die ökonomischen Grundlagen des deutschen Sozialismus," in *Die neue Zeit*, V (1887), especially p. 536, where attention is called to Marx's historical interpretation of history in his letters to Ruge in 1843.

[1] The substance of these essays has been printed by Struve in *Die neue Zeit*, XIV (1896), 41–48, under the title of "Zwei bisher unbekannte Aufsätze von Karl Marx aus den vierziger Jahren. Ein Beitrag zur Entstehungsgeschichte des wissenschaftlichen Sozialismus."

[2] A monthly review edited by Otto Lüning, which lived from 1845 to 1848.

[3] *Der Volkstribun*, edited by H. Kriege in 1846.

[4] "Karl Grün, die soziale Bewegung in Frankreich und Belgien oder die Geschichtsschreibung des wahren Sozialismus." This appeared early in 1847. The whole of this essay has now been printed, with an introduction by E. Bernstein, in *Die neue Zeit*, XVIII (1900), 4, 37, 132, 164.

[5] "Herr Grün vergisst, dass Brot heutzutage durch Dampfmühlen, früher durch Wind und Wassermühlen, noch früher durch Handmühlen produzirt wurde, dass diese verschiedenen Produktionsweisen vom blossen Brotessen gänzlich unabhängig sind. . . . Dass mit diesen verschiedenen Stufen der Produktion auch verschiedene Verhältnisse der Produktion zur Consumtion, verschiedene Widersprüche beider gegeben sind, dass diese Widersprüche zu verstehen sind nur aus einer Betrachtung, zu lösen nur durch eine praktische Veränderung, der jedesmaligen Produktionsweise und des ganzen darauf basirenden gesellschaftlichen Zustandes: das ahnt Herr Grün nicht." (*Die neue Zeit*, XIV, ii, 51.) That the difference between Marx and the "true socialists" has often been exaggerated is claimed by Mehring in *Die neue Zeit*, XIV, ii, 401.

[6] In this year Marx also published an article in the *Deutsche Brüsseler Zeitung* entitled "Die moralisierende Kritik und die kritisierende Moral, ein Beitrag zur deutschen Kulturgeschichte." It was directed against Karl Heinzen and was of very much the same character as his attack on Grün.

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economic history. He was now so convinced of the truth of his new theory that he proceeded to make a furious onslaught on the older socialists in the person of their chief representative — Proudhon. In reply to Proudhon's *Philosophy of Misery* Marx wrote his *Misery of Philosophy*. Here he elaborates the theory that economic institutions are historical categories and that history itself must be interpreted in the light of economic development. We read — in French, it is true, for Marx wrote equally well in German, English and French — that the conception of private property changes in each historical epoch, in a series of entirely different social relations.[1] In a more general way Marx contends that all social relations are intimately connected with the productive forces of society. He tells us that

> in changing the modes of production, mankind changes all its social relations. The hand mill creates a society with the feudal lord; the steam mill a society with the industrial capitalist. The same men who establish social relations in conformity with their material production also create principles, ideas and categories in conformity with their social relations. . . . All such ideas and categories are therefore historical and transitory products.[2]

In another place he maintains that "the relations in which the productive forces of society manifest themselves, far from being

[1] "A chaque époque historique, la propriété s'est développée différemment et dans une série de rapports sociaux entièrement différents. Ainsi définir la propriété bourgeoise n'est autre chose que faire l'exposé de tous les rapports sociaux de la production bourgeoise. Vouloir donner une définition de la propriété comme d'un rapport indépendant, d'une catégorie à part, d'une idee abstraite et éternelle, cela ne peut être qu'une illusion de métaphysique ou de jurisprudence."— Misère de la Philosophie. Réponse à la Philosophie de la Misère de M. Proudhon. Par Karl Marx, 1847, p. 153.

[2] "Les rapports sociaux sont intimement liés aux forces productives. En acquirant de nouvelles forces productives les hommes changent leur mode de production, et en changeant leur mode de production, la manière de gagner leur vie, ils changent tous leurs rapports sociaux. Le moulin à bras vous donnera la société avec le suzerain; le moulin à vapeur, la société avec le capitaliste industriel. . . . Les mêmes hommes qui établissent les rapports sociaux conformément à leur productivité matérielle produisent aussi les principes, les idées, les catégories, conformément à leurs rapports sociaux. . . . Ainsi ces idées, ces catégories, sont aussi peu éternelles que les relations qu'elles expriment. Elles sont des produits historiques et transitoires."— *Ibid.*, pp. 99, 100.

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eternal laws, correspond to definite changes in man and in his productive forces."[1] Marx applies this general law in many ways. Thus, in an acute study of the doctrine of rent, he points out that rent in the Ricardian sense is nothing but "patriarchal agriculture transformed into commercial industry";[2] and, after explaining the historical growth of modern agricultural conditions, he concludes by objecting to the whole classical school, because it fails to see that economic institutions can be understood only as historical categories.[3] In another passage he contends that money itself is not a thing, but a social relation, and that this relation corresponds to a definite form of production in precisely the same way as exchanges between individuals.[4] Finally, in analyzing the essence of machinery and the historical importance of the principle of division of labor, Marx tells us that "machinery is not any more of an economic category than is the ox that pulls the plough; it is a productive force. The modern factory, which is itself based on machinery, is a social relation, an economic category."[5] In short, social life at any one time is the result of an economic evolution.

[1] "N'est-ce pas dire assez que le mode de production, les rapports dans lesquels les forces productives se développent, ne sont rien moins que des lois éternelles, mais qu'ils correspondent à un développement déterminé des hommes et de leurs forces productives, et qu'un changement survenu dans les forces productives des hommes amène nécessairement un changement dans les rapports de production." — Misère de la philosophie, p. 115; *cf.* pp. 152, 177.

[2] "La rente, dans le sens de Ricardo, c'est l'agriculture patriarcale transformée en industrie commerciale, le capital industriel appliqué à la terre, la bourgeoisie des villes transplantée dans les campagnes." — *Ibid.*, p. 159.

[3] "Ricardo apres avoir supposé la production bourgeoise comme nécessaire pour déterminer la rente, l'applique néanmoins à la propriété foncière de toutes les époques et de tous les pays. Ce sont là les errements de tous les économistes qui répresentent les rapports de la production bourgeoise comme des catégories éternelles." — *Ibid.*, p. 160.

[4] "La monnaie, ce n'est pas une chose, c'est un rapport social. . . . Ce rapport est un anneau et comme tel, intimement lié à tout l'enchainement des autres rapports économiques; . . . ce rapport corréspond à un mode de production determiné, ni plus ni moins que l'échange individuel." — *Ibid.*, p. 64.

[5] "Les machines ne sont plus une catégorie économique que ne saurait être le bœuf que traine la charrue. Les machines ne sont qu'une force productive. L'atelier moderne, qui repose sur l'application des machines, est un rapport social de production, une catégorie économique." — *Ibid.*, p. 128.

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In the famous *Manifesto of the Communist Party*,[1] which appeared the following year, we find the implications, rather than the direct statement, of the principle. After describing how the guild system of industry gave way to the modern industrial system, based on the world market and on the revolution in industrial production, Marx points out that the *bourgeoisie*, in revolutionizing the methods of production, alters with them the whole character of society, and displaces feudalism with modern conditions. At the present day this is a truism; but at the time the manifesto appeared it was a novel and striking conception. Unfortunately, the thought was so inextricably interwoven with Marx's peculiarly socialistic explanation of the effects of machinery, of the function of capital and of the speedy cataclysm of society, that it made at the time but little impression.

In the succeeding years Marx made various applications of his theory. In 1849 he published a series of articles on *Wage-Labor and Capital*, in the course of which he traced the reason for the change from slavery to serfdom and to the wages system and again laid down the principle that all relations of society depend upon changes in the economic life and more particularly in the modes of production. He tells us that

> with the change in the social relations by means of which individuals produce, that is, in the social relations of production, and with the alteration and development of the material means of production, the powers of production are also transformed. The relations of production collectively form those social relations which we call society, and a society with definite degrees of historical development. . . . Ancient society, feudal society, bourgeois society are simply instances of this collective result of the complexes of relations of production, each of which marks an important step in the historical development of mankind.[2]

In a series of articles published in 1850, on "The Class Struggles in France from 1848 to 1850," Marx made the first attempt

[1] Manifest der Kommunistischen Partei (London, 1848), pp. 4–7.

[2] "Lohnarbeit und Kapital," *Neue rheinische Zeitung*, April, 1849. This was a series of lectures which Marx delivered in 1847 to a Brussels labor union. They have recently been translated by J. L. Joynes and published in pamphlet form under the title, Wage-Labor and Capital (London, 1897).

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to apply his principle to an existing political situation.[1] He endeavored to show that the great crisis of 1847 was the real cause of the February revolution, and that the economic reaction of 1849 and 1850 was the basis of the political reaction throughout the Continent. He followed this in 1852 by another article on "The Eighteenth Brumaire," in which he attempted to lay bare the economic foundations of the *coup d'État* in France, and to show that the empire really depended on the small farmer or peasant, who had now become not a revolutionist, but a conservative.[2] It is in this work that we find the interesting bit of social psychology in which the ideals of life themselves, as well as the views of any one individual, no matter how eminent, are traced to social and economic causes:

> On the various forms of property, on the conditions of social existence, there rises an entire superstructure of various and peculiarly formed sensations, illusions, methods of thought and views of life. The whole class fashions and moulds them from out of their material foundations and their corresponding social relations. The single individual, in whom they converge through tradition and education, is apt to imagine that they constitute the real determining causes and the point of departure of his action.[3]

In another passage he contends that

> men make their own history, but they make it not of their own accord or under self-chosen conditions, but under given and transmitted

[1] These articles appeared under the simple title "1848–1849" in the *Neue rheinische Zeitung. Politisch-ökonomische Revue*, redigirt von Karl Marx, 1850. They were not published in pamphlet form until 1895, when Engels edited them under the title Die Klassenkämpfe in Frankreich, 1848 bis 1850.

[2] "Der achtzehnte Brumaire des Louis Bonaparte" constituted the second number of a political monthly called *Die Revolution*, edited in New York in 1852 by Joseph Weydemeyer. It was reprinted as a separate pamphlet by Marx in 1869. A third edition was published in cheap form in 1885.

[3] "Auf den verschiedenen Formen des Eigenthums, auf den sozialen Existenzbedingungen, erhebt sich ein ganzer Ueberbau verschiedener und eigenthümlich gestalteter Empfindungen, Illusionen, Denkweisen und Lebensanschauungen. Die ganze Klasse schafft und gestaltet sie aus ihren materiellen Grundlagen heraus und aus den entsprechenden gesellschaftlichen Verhältnissen. Das einzelne Individuum, dem sie durch Tradition und Erziehung zufliessen, kann sich einbilden, dass sie die eigentlichen Bestimmungsgründe und den Ausgangspunkt seines Handelns bilden." — *Op. cit.*, 2d ed., p. 26.

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conditions. The tradition of all dead generations weighs like a mountain on the brain of the living.[1]

During the early fifties, largely through the efforts of Mr. Charles A. Dana, Marx was engaged to write a series of articles for the New York *Tribune*, which, under the editorship of Horace Greeley, was devoting considerable attention to the Fourierist socialistic movement in the United States. In these articles, which appeared in English for a period of over eight years, some of them anonymously, as editorials of the *Tribune*, Marx discussed the general politics of continental Europe in the light of his economic theory, and contributed in no mean degree to the enlightenment of the American public.[2] It was not, however, until the appearance in 1859 of his first professedly scientific work, *Contributions to the Criticism of Political Economy*, that Marx endeavored to sum up his doctrine of economic interpretation and to show how this induced him to attempt his analysis of modern industrial society. He tells us that his

investigation led to the conclusion that legal relations, like the form of government, can be understood neither of and in themselves nor as the result of the so-called general progress of the human mind, but that they are rooted in the material conditions of life. . . . In the social production of their every-day existence men enter into definite relations that are at once necessary and independent of their own volition — relations of production that correspond to a definite stage of their material powers of production. The totality of these relations of production constitutes the economic structure of society — the real basis on which is erected the legal and political edifice and to which there correspond definite forms of social consciousness.

[1] "Die Menschen machen ihr eigene Geschichte, aber sie machen sie nicht aus freien Stücken, nicht unter selbstgewählten, sondern unter gegebenen und überlieferten Umständen. Die Tradition aller toten Geschlechter lastet wie ein Alp auf dem Gehirn der Lebenden."

[2] These articles have recently been collected and published in book form. The articles of 1851–52 have appeared under the title, Revolution and Counter Revolution, or Germany in 1848. By Karl Marx. Edited by Eleanor Marx Aveling, London, 1896. The letters of 1853–56 are entitled: The Eastern Question, a Reprint of Letters written 1853–1856, dealing with the Events of the Crimean War. By Karl Marx. Edited by Eleanor Marx Aveling and Edward Aveling, London, 1897.

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The method of production in material existence conditions social, political and mental evolution in general.[1]

And, after speaking of the periods when the old forces are in temporary conflict with the new, Marx proceeds:

With the alteration in the economic basis the whole immense superstructure is more or less slowly transformed. In considering such transformations we must always distinguish between the material transformation in the economic conditions of production, of which natural science teaches us, and the legal, political, æsthetic or philosophical — in short ideological forms, in which men become conscious of this conflict and fight it out.[2]

In his great work on *Capital*, published eight years later, although he continually takes it for granted, Marx nowhere formulates this law. While the final chapter contains some interesting economic history of England since the sixteenth century, Marx confines the discussion to a study of the economic results rather than of the wider social or political consequences. Partly for this reason and partly because the general public did not distinguish between his historical views and his socialistic analysis of existing industrial society, Marx's view of history had at first but slight influence outside of socialistic circles. After his earlier works came to be studied more carefully, the

[1] "Meine Untersuchung mündete in dem Ergebniss, dass Rechtsverhältnisse wie Staatsformen, weder aus sich selbst zu begreifen sind, noch aus der sogenannten allgemeinen Entwicklung des menschlichen Geistes, sondern vielmehr in den materiellen Lebensverhältnissen wurzeln. . . . In der gesellschaftlichen Produktion ihres Lebens gehen die Menschen bestimmte, nothwendige, von ihrem Willen unabhängige Verhältnisse ein, Produktionsverhältnisse, die einer bestimmten Entwicklungsstufe ihrer materiellen Produktionskräfte entsprechen. Die Gesammtheit dieser Produktionsverhältnisse bildet die ökonomische Struktur der Gesellschaft, die reale Basis, worauf sich ein juristischer und politischer Ueberbau erhebt, und welcher bestimmte gesellschaftliche Bewusstseinsformen entsprechen. Die Produktionsweise des materiellen Lebens bedingt den socialen, politischen und geistigen Lebensprocess überhaupt." — Zur Kritik der politischen Oekonomie, Erstes Heft (1859), pp. iv, v.

[2] "In der Betrachtung solcher Umwälzungen muss man stets unterscheiden zwischen der materiellen naturwissenschaftlich treu zu konstatirenden Umwälzung in den ökonomischen Produktionsbedingungen und den juristischen, politischen, religiösen, künstlerischen oder philosophischen, kurz ideologischen Formen, worin sich die Menschen dieses Konflikts bewusst werden und ihn ausfechten." — *Ibid.*, p. v.

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younger Marxists pointed out the real import of the historical principle. But it was not until the publication in 1894, eleven years after the death of Marx, of the third volume of *Capital*, with its wealth of historical interpretation, that the continental writers in general realized the significance of the theory; and it is only since that time that the heated controversy has spread throughout the scientific world.[1] Since neither the earlier works of 1847 or 1859 nor any of the later volumes of *Capital* have as yet been translated, the English-speaking public has had only slight opportunity of grasping the real significance of Marx's theory or its corollaries.

In the first volume of *Capital* the only passage in which Marx definitely refers to his fundamental theory is tucked away in a note.[2] Here he compares his theory to that of Darwin and insists that it is based on the only really materialistic method:

> A critical history of technology would show how little any of the inventions of the eighteenth century are the work of a single individual. Hitherto there has been no such book. Darwin has interested us in the history of Nature's technology, *i.e.*, in the formation of the organs of plants and animals, which organs serve as instruments of production for sustaining life. Does not the history of the productive organs of man, of organs that are the material basis of all social organization, deserve equal attention? And would not such a history be easier to compile, since, as Vico says, human history differs from natural history in this, that we have made the former, but not the latter? Technology discloses man's mode of dealing with Nature, — the process of production by which he sustains his life, and thereby also lays bare the mode of formation of his social relations, and of the mental conceptions that flow from them. Every history of religion, even, that fails to take account of this material basis, is uncritical. It is, in reality, much easier to discover by analysis the earthly core of the misty creations of religion, than it is, conversely, to develop from the actual relations of life the corresponding celestialized forms of those relations. The latter is the only materialistic, and therefore the only scientific method. The weak points in the

[1] In the socialistic circles the controversy may be said to date from 1890, when the matter was taken up in the discussions of the programme of the Social Democratic party in Germany.

[2] Capital (English translation), II, 367, note 1.

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abstract materialism of natural science, a materialism that excludes history and its process, are at once evident from the abstract and ideological conceptions of its spokesmen, whenever they venture beyond the bounds of their own specialty.

It is in the third volume of *Capital* that Marx gives a definite statement of his theory, with some necessary qualifications, inattention to which is partly responsible for some of the objections to the theory. With this extract we may fitly close the series of quotations:

It is always the immediate relation of the owner of the conditions of production to the immediate producers — a relation each of whose forms always naturally corresponds to a given stage in the methods and conditions of labor, and thus in its social productivity — in which we find the innermost secret, the hidden basis of the entire social structure, and thus also of the political forms. . . . This does not prevent this same economic basis in all its essentials from showing in actual life endless variations and gradations due to various empirical facts, natural conditions, racial relations, and external historical influences without number — all of which can be comprehended only by an analysis of these conditions as they are disclosed by experience.[1]

IV

We have now studied the genesis and development of the doctrine, chiefly in the words of Marx himself. But, it will be asked, how far is the theory of economic interpretation original with Marx?

There are, indeed, abundant traces of the connection between

[1] "Es ist jedesmal das unmittelbare Verhältniss der Eigenthümer der Produktionsbedingungen zu den unmittelbaren Producenten — ein Verhältniss, dessen jedesmalige Form stets naturgemäss einer bestimmten Entwicklungsstufe der Art und Weise der Arbeit, und daher ihrer gesellschaftlichen Produktivkraft entspricht — worin wir das innerste Geheimniss, die verborgene Grundlage der ganzen gesellschaftlichen Construction, und daher auch die politische Form der Souveränetäts- und Abhängigkeitsverhältnisse, kurz, der jedesmaligen specifischen Staatsform finden. Dies hindert nicht, dass dieselbe ökonomische Basis — dieselbe den Hauptbedingungen nach — durch zahllos verschiedene empirische Umstände, Naturbedingungen, Racenverhältnisse, von aussen wirkende geschichtlichen Einflüsse u. s. w. unendliche Variationen und Abstufungen in der Erscheinung zeigen kann, die nur durch Analyse dieser empirisch gegebenen Umstände zu begreifen sind."— Das Kapital, III, 2, pp. 324, 325.

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economic causes and legal, political or social conditions to be found in the literature of earlier centuries. Harrington, for instance, in his *Oceana*, tells us that the form of government depends upon the tenure and distribution of land. The very foundation of his whole theory is: "Such as is the proportion or ballance of dominion or property in Land, such is the nature of the Empire." [1] In the eighteenth century we find writers, like Möser,[2] who emphasized the influence of property in land on politics. Especially in the socialists of the second quarter of the nineteenth century we find not infrequent allusions to a similar point of view. Fourier, St. Simon, Proudhon and Blanc naturally call attention to the influence of economic conditions on the immediate politics of the day,[3] and the first foreign historian of French socialism, Lorenz von Stein, elaborated some of their ideas by positing the general principle of the subordination of the political to the economic life.[4] The early minor German socialists, such as Marr, Hess and Grün,[5] as well as here and there

[1] "If one man," he proceeds, "be sole Landlord, or overballance the people, he is Grand Signior . . . and his Empire is Absolute Monarchy. If the Few or a Nobility overballance the people, it makes the Gothic ballance and the Empire is mixed Monarchy (as in Spain and Poland). If the whole people be Landlords, or hold the lands so divided among them that no one man or number of men . . . overballance them, the Empire (without the interposition of force) is a Commonwealth." — The Commonwealth of Oceana (1656), p. 4.

[2] In his Vorrede zur osnabrückschen Geschichte (1768). See the interesting article, "Justus Möser als Geschichtsphilosoph," von P. Kampffmeyer, in *Die neue Zeit*, XVII, 1, pp. 516–524.

[3] As to St. Simon, see P. Barth in *Die Zukunft*, IV, 449, and the same writer's Die Philosophie der Geschichte als Soziologie (1897). *Cf.* The French Revolution and Modern French Socialism, by Jessica Peixotto (1900), pp. 219–221. Both Barth and Peixotto exaggerate the influence of St. Simon. For Fourier and Le Chevalier, see Wenckstern's book on Marx (1896), pp. 250, 251. For Proudhon, see Mühlberger, Zur Kentniss des Marxismus (1894).

[4] Stein's views were first advanced in 1842, in Der Socialismus und Communismus des heutigen Frankreichs. In a later work, published in 1850, Geschichte der socialen Bewegung in Frankreich, he developed more fully his idea of society as the community in its economic organization, and of social, *i.e.*, economic growth as the basis of legal and political life. This produced a decided effect on Gneist, and through him on much of modern German historical jurisprudence. But Stein's doctrine exerted little influence on economic thought or historical investigation in general.

[5] For some of their statements, see G. Adler, Die Grundlagen der Karl Marx'schen Kritik der bestehenden Volkswirthschaft (1887), pp. 214–226. For

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other writers,[1] express themselves sporadically in like manner. But if originality can properly be claimed only for those thinkers who not alone formulate a doctrine but first recognize its importance and its implications, so that it thereby becomes a constituent element in their whole scientific system, there is no question that Marx must be recognized as in the truest sense the originator of the economic interpretation of history.[2]

It may be asked, finally, how far the other founders of scientific socialism, Rodbertus and Lassalle, should share with Marx the honor of originating the doctrine of economic interpretation of history. The question of the priority of view as between Marx and Rodbertus was at one time hotly discussed.[3] The controversy, however, turned chiefly on the specifically socialistic doctrines of labor and surplus value, which have in their essentials nothing to do with the economic interpretation of history. Even as to that point, however, the friends of Rodbertus now concede that the charges originally preferred against Marx were false.[4] So far as the economic interpretation of history is concerned, there is no claim that Rodbertus originated or even maintained the doctrine.[5]

the more general views of these German socialists, see G. Adler, Die Geschichte der ersten socialpolitischen Arbeiterbewegung in Deutschland (1885).

[1] *Cf.* a remarkable paragraph in the work of the deservedly forgotten Lavergne-Peguilhen, Die Bewegungs- und Produktionsgesetze (1838), p. 225, to which Brentano first called attention. Mehring has pointed out the slight importance to be attached to this advocate of the feudal-romantic school, in his Die Lessing Legende nebst einem Anhange über den historischen Materialismus (1893), pp. 435–441. [2] *Cf.* Woltmann, Der historische Materialismus (1900), p. 24.

[3] The charge that Marx copied from Rodbertus was first made by R. Meyer, Emancipationskampf des vierten Standes (1875), I, 43; 2d ed., 1882, pp. 57 and 83, and was repeated by Rodbertus himself in a letter to J. Zeller in the Tübinger *Zeitschrift für die gesammte Staatswissenschaft* (1879), p. 219. *Cf.* also Briefe und socialpolitische Aufsätze von Dr. Rodbertus-Jagetzow, herausgegeben von Dr. R. Meyer, n.d. [1880], p. 134. The charge was triumphantly refuted by Engels in the preface to Das Elend der Philosophie, Deutsch von E. Bernstein (1885), and more fully in the preface to the second (German) volume of Das Kapital (1885), pp. viii–xxi.

[4] *Cf.* A. Wagner, in the Introduction to the third volume of Aus dem literarischen Nachlass von Dr. Karl Rodbertus-Jagetzow, herausgegeben von Adolph Wagner und Theophil Kozak (1885), p. xxxi.

[5] *Cf.* A. Wagner, in his Grundlegung der politischen Oekonomie, II (3d ed., 1894), pp. 281, 282, where Marx is described as proceeding "einseitig entwicklungs-

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With reference to Lassalle, it would hardly be necessary to refer to the matter at all, were it not for the fact that a prominent English economist has recently implied that the doctrine is first found in his writings.[1] As a matter of fact, it is now conceded by the ablest students of socialism that Lassalle originated none of the important points in theory, even though it is true that without the marvellous practical sagacity of Lassalle the world at large would probably have heard but little of Marx and Rodbertus. The International, in the hands of Marx, was a fiasco; practical socialism, in the hands of Lassalle, became a powerful political and social force. But while Lassalle was a great agitator and statesman, he was not a constructive thinker, — in economics, at all events; and while Marx was a failure in practical life, he was a giant as a closet philosopher.[2] Whether

gesetzlich, mit den Hilfsmitteln seiner materialistischen Geschichtsauffassung," while Rodbertus argues "ohne die geschichtlichen und dialectischen Hilfsmittel von Marx." *Cf.* also the essay of Kautsky, "Das 'Kapital' von Rodbertus," in *Die neue Zeit*, II (1884), p. 350.

[1] Bonar, Philosophy and Political Economy (1893), pp. 350, 351, quoting from Lassalle's Workmen's Programme of 1862. All the points mentioned by Mr. Bonar are found in Marx's books of 1847 and 1859.

[2] It is much to be regretted that Professor Foxwell, in his introduction to the translation of Menger's The Right to the whole Produce of Labour (1899), seems to lend credence to Menger's contention that Marx borrowed his theory of surplus value from the English socialists, without giving them credit. As every one who is familiar with the subject knows, both parts of this statement are erroneous. It was Marx himself who first called attention in detail to the English socialists, quoting extensively from Hopkins, Thompson, Edwards and Bray in La Misère de la Philosophie (pp. 49–62); and to compare their theories to that of Marx is like comparing the political economy of Petty to that of Ricardo. It must be remembered, however, that the author of the book in question is not the economist Carl Menger, but his brother Anton, the jurist. Professor Ashley must have had these passages in mind when he was misled into the hasty characterization of Marx as "a man of great ability, but neither so learned nor so original as he appeared." See his Surveys, Historic and Economic (1900), p. 25. Those who really know their Marx have no such opinion. Böhm-Bawerk, one of the chief opponents of Marx's theory of surplus value, has often expressed high admiration for his powers, and goes so far as to call him a "philosophical genius" and "an intellectual force of the highest order." See Karl Marx and the Close of his System, by Böhm-Bawerk (1898), pp. 148, 221. If for no other reason than for his admirable and profound treatment of the money problem in the second (German) volume of Das Kapital, Marx would occupy a prominent place in the history of economics. His earlier works show that he was equally strong in other fields of human thought. As for his learning, it may suffice to call attention

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or no we agree with Marx's analysis of industrial society, and without attempting as yet to pass judgment upon the validity of his philosophical doctrine, it is safe to say that no one can study Marx as he deserves to be studied — and, let us add, as he has hitherto *not* been studied in England or America — without recognizing the fact that, perhaps with the exception of Ricardo, that other great economist of Jewish extraction, there has been no more original, no more powerful, and no more acute intellect in the entire history of economic science.

EDWIN R. A. SELIGMAN.

to the fact that Marx was the first writer to study in detail the history of early English economic thought, as well as the first economist to make an effective investigation based on the English blue books.

(*To be continued.*)

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FOUR GERMAN JURISTS. IV.

Bruns, Windscheid, Jhering, Gneist.

VIII.

THE jurists whose work has been examined in the preceding papers of this series[1] confined themselves, in the main, to teaching and writing. Gneist's activities were more varied: he was at once professor, author, judge and politician, and in each of these callings he attained distinct eminence. He taught at the University of Berlin for forty-six years, and during this period his lectures were attended by nearly fifty thousand students.[2] He wrote almost as many books, pamphlets and articles as Bruns, Windscheid and Jhering together,[3] and his writings brought him recognition as the first publicist of Germany, if not of the Continent.[4] He held judicial office for nearly thirty years; he was a member during the last two decades of his life of the highest administrative court of Prussia; and during his last twelve years he sat also in the Prussian Privy Council. He took an active part in Prussian and German politics; he was a member, for more than thirty years, of the Prussian Chamber of Deputies and for seventeen years of the Imperial Diet also; and he was recognized as a leader of the right wing of the Liberal party.

Like Bruns, Windscheid and Jhering, Gneist began teaching

[1] Political Science Quarterly, X, 664; XI, 278; XII, 21.

[2] In 1886, when Gneist had completed his forty-seventh year of academic service, the records of the University showed that more than forty thousand students had subscribed for his courses. (Walcker, Rudolf von Gneist, p. 11.) In February, 1888, Gneist was appointed instructor of the present Emperor (then Prince) William in constitutional and administrative law.

[3] A list of the chief publications of each of the four jurists was given in Political Science Quarterly, X, 664, 665.

[4] The esteem in which Gneist was held by his professional brethren is indicated by the fact that he was for twenty years president of the German Bar Association. — Walcker, p. 12.

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and writing in the field of Roman private law. He offered the customary Romanistic courses at the University, and he published in 1845 a work, which is still regarded as valuable, upon *The Formal Contracts of Modern Roman Law*.[1] But a lively interest in public problems and a strong desire to aid in solving them were already drawing him out of private life and away from private law. He belonged, both on the father's side and on the mother's,[2] to that official class which for more than a century had been the only political class in Prussia; and the conditions of the period (1840–48) were such as to excite political interest among all educated men. The rhetorical phrases of Frederick William IV upon his accession to the throne had fired the public imagination and had aroused hopes of the establishment of constitutional government. The acts and omissions of the king during the following eight years converted the elation of expectancy into the anger of disappointment. During these years Gneist added to his Romanistic courses lectures on criminal law and procedure, in no wise confining himself to the exposition of existing law, but insisting on the necessity of its reform: advocating, in particular, public and controversial as against secret and inquisitorial procedure, and decision by the verdict of an independent jury. These were, at the time, political questions, and their discussion involved or, at least, facilitated the discussion of many other political questions.[3] Gneist's next publications were the outcome of these courses of lectures: they treated of duels and of juries.[4]

Immediately before the disturbances of 1848 and the establishment of constitutional government, Gneist entered political life at the only point then open, by seeking and obtaining election to the municipal assembly of Berlin. In 1848 and in

[1] Die formellen Verträge des neueren römischen Obligationenrechts. In 1858 he published a pamphlet dealing with a special question in the same field, De causae probatione stipulatoris, and also a Syntagma of the Institutes of Gaius and of Justinian.

[2] *Cf.* Walcker, pp. 9, 10.

[3] *Cf.* Bornhak, "Rudolf von Gneist," *Archiv für öffentliches Recht*, XI, 2, p. 1.

[4] Der Zweikampf und die germanische Ehre, 1848; Bildung der Geschworenengerichte, 1849.

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1849 he stood for election to the Prussian National Assembly and to its successor, the Prussian Chamber of Deputies; but in both cases he was defeated by the Radical candidate.[1] In the movements of 1848 and 1849 he accordingly participated only in the modest positions of municipal assemblyman and member of the civic militia, which, however, gave him opportunity to exercise a moderating influence at several decisive moments.[2] The only immediate literary result of these experiences was a description of the conditions that obtained in Berlin during the revolution.[3]

At this time, as indeed throughout his life, Gneist was a moderate Liberal. The central article of the Liberal program was the demand for constitutional government, which meant representative government created by popular elections, after the English fashion. But the imitation, in France and other European countries, of English parliamentary institutions had not yielded the desired and anticipated results. Wherever continental constitutionalism had established government by party, the outcome had been partisan government. Instead of securing the liberty of the individual, it had merely substituted for the arbitrary rule of the crown the equally arbitrary rule of changing ministries. Instead of securing peaceful progress, it seemed to beget an alternating series of executive usurpations and popular revolutions. So now again, in due course, the Revolution of 1848 was followed, in France, by the *Coup d'État* and the Second Empire; in Prussia, by a period of reaction, guided and utilized by the landed aristocracy. As long as these experiments and failures were confined to Latin Europe, German writers were at no loss for a theory that should exculpate constitutionalism; but when similar phenomena revealed themselves in Germany, it became clear that the constitutional theory must be reëxamined.

[1] Walcker, p. 12; Bornhak, p. ii. Gneist's statement that he declined a summons to the national assemblies of that time (History of the English Constitution, Author's Preface, p. iv), although it apparently refers to the years 1848 and 1849, must actually refer to the years immediately following.

[2] Bornhak, p. ii.

[3] Berliner Zustände von März 1848 zu März 1849.

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To this task Gneist addressed himself, withdrawing from active political life[1] and abandoning his judicial career.[2] As a pupil of Savigny and a faithful adherent of the historical school, he of course went back of continental constitutionalism to its English prototype and proceeded to study the English constitution in its historical development. Some of the preliminary results were given to the public in a paper read before the Berlin Scientific Union in March, 1853, which was expanded, by the addition of notes, into a pamphlet of a hundred pages, *Nobility and Gentry in England*.[3] At this time Gneist had already convinced himself that the English constitution could not be comprehended or explained apart from the English system of administration, and to the study of this system he devoted the next three years of his life. Much of this work he afterwards declared was like an excursion through a primeval forest.[4] The administrative law was the unknown part of the English law; in fact, the English lawyers had not even a name for it. English historians had not yet brought out the facts necessary to elucidate its development. Blackstone, a century before, had blazed a path into the wilderness, but Freeman and Stubbs had not yet cut roads, and Gneist was obliged to struggle through "the chaos of disconnected antiquarian matter piled up around Blackstone's commentaries," the English statutes and Parliamentary reports and the decisions of the English courts.[5] The result of these pioneer labors was Gneist's *magnum opus*, his *English Constitutional and Administrative Law*. It first appeared in two volumes, in 1857 and 1860, and was ultimately expanded into four volumes of nearly three

[1] He made no further attempt to enter political life until 1859. *Cf. supra*, p. 643, note 1.

[2] His resignation of his judicial office in 1850 was primarily a protest against the reactionary policy of the Prussian government. If it had not been offered then, it certainly would have been offered later; for a man of Gneist's character and opinions could not have submitted to the influence which the administration exercised upon the judiciary during the period of reaction (in 1850–58) and the period of conflict (1862–66). He resumed his judicial career in 1875.

[3] Adel und Ritterschaft in England.

[4] History of the English Constitution, Preface, p. v; Verwaltungsrecht, II, p. v.

[5] *Ibid.*; Verwaltung, Justiz, *etc.*, Vorwort, p. 6; Rechtsstaat, pp. 258, 259.

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thousand pages, published between 1871 and 1884.[1] Printed in the form in which our less rugged branch of the Teutonic family handles its solid literature, the number of pages and of volumes would be doubled.

Gneist claimed that he had solved the problem which he had undertaken to solve, that he had discovered why parliamentary government worked well in England and badly or not at all on the Continent. He found the solution, not wholly in the differences between the Teutonic and the Latin peoples, and not at all in any difference between the English and the German peoples, but in certain political and legal institutions which had been developed in England, but were lacking in Latin Europe and were only imperfectly developed in Germany. There were differences, he recognized, between the Teutonic and the Latin peoples, — differences which made the establishment of constitutional government among the latter more difficult, — but these differences, he believed, were largely the result of their different institutions. In its administrative and judicial institutions especially England had solved the chief problems of public law — "problems which had made

[1] The first part of the work, Geschichte und heutige Gestalt der Aemter in England, 1857, was expanded in 1867 into two volumes, entitled Das englische Verwaltungsrecht, of which the first volume gave the history and the second the modern law. This was again expanded into three volumes: Englische Verfassungsgeschichte, 1882, and Das englische Verwaltungsrecht der Gegenwart, Allgemeiner Theil, 1883; Besonderer Theil, 1884. Das englische Parliament in seinen tausendjährigen Wandlungen, 1886, covers to a large extent, but in a more popular way, the same field as the Englische Verfassungsgeschichte. Only these two historical volumes have been translated into English. The History of the English Constitution, translated by Ashworth, was published in two volumes in 1886 (2d ed., 1890). The History of the English Parliament has been twice translated, by Shee and by Keane, and each of these translations has run through several editions. Gneist read the proof of Keane's translation.

The second part of the original work, Die heutige englische Communalverfassung und Communalverwaltung oder das System des Selfgovernment, 1860, was expanded in 1863 into two volumes, and appeared in its third and final edition in 1871 in one volume, under the title Selfgovernment, Communalverfassung und Verwaltungsgerichte in England. Of this part there is a French translation: Constitution communale de l'Angleterre, traduit par Hippert, 5 vols., 1868–70.

A condensation of the entire treatise into an article (which, however, would make a very respectable English octavo volume) may be found in Holtzendorff's Encyclopädie der Rechtswissenschaft (5th ed., 1890), pp. 1377–1478.

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Germany doubt and France despair" — as adequately as Rome had solved the chief problems of private law.[1] The trouble with continental constitutionalism was that English public law had been received only in part, and that the part which had been ignored was the necessary basis of the part that had been selected.

These convictions gave to Gneist's literary work, from 1857 on, a propagandist character. He did not advocate a general imitation of English institutions; he maintained that in many respects the Prussian institutions were better than the English. He did not advocate the simple transfer to his own country of any English institution, for he recognized that every nation must develop its polity along its own lines. He advocated the recognition and acceptance of the principles which he found embodied in certain English institutions and the development, in accordance with those principles, of equivalent Prussian and German institutions. In this way, he believed, it would be possible to organize a German constitutional state which should improve upon the English model. In the first edition of his *English Constitutional and Administrative Law* the missionary spirit was clearly discernible: he emphasized throughout the differences between English and continental institutions and the points in which the former were superior. In the last edition of the *Administrative Law* he added to the title the words "in comparison with the German administrative systems." During the thirty-six intervening years he published several books and many pamphlets and articles which were simply longer or shorter tracts for the dissemination of sound constitutional theories. In 1864, in an article of a hundred pages on the *Representative System in England*,[2] he made a first attempt to popularize his views. In 1869 he published, for the benefit of the legal and official classes, an elaborate comparison between the English, French and German administrative and judicial systems; and since nearly every subsection on Prussian conditions concluded

[1] Verwaltung, Justiz, *etc.*, p. 3; Verwaltungsrecht, p. 4.

[2] Das Repräsentativsystem in England, in Haxthausen, Das Constitutionelle Princip, II, 87–180.

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with suggestions *de lege ferenda*, the work presented a complete program of reform. In spite of its uncouth title, *Administration, Justice, Recourse to the Courts, Central Administration and Self-government*,[1] the book reached the classes for which it was written ; and when, ten years later, Gneist assured us, his students, — not naïvely, but with an admirable detachment of his public from his private personality, — that this book had "made an epoch," he did not exaggerate its importance. Another attempt to influence German legal opinion was made by him in 1871, in an address of welcome delivered on behalf of the Berlin Juristic Society to the legal members of the first German Parliament. This address was published in 1872, under the title of the *Jural State*.[2] In special studies, moreover, regarding city and county government, public schools, taxation, the budget, the organization of the bar, judicial procedure and the powers of the courts,[3] — studies published, as a rule, when the topics treated were under legislative consideration, — Gneist drew upon the reservoir of political wisdom which he had found walled up within the English public law, and sent its vivifying waters trickling over the arid fields of the German *Polizeistaat*.

In this mass of scientific and controversial literature there is an amount of repetition that is very wearisome to the reader of to-day — repetition not only of facts and conclusions, which was inevitable under the circumstances, but of words and

[1] I translate only a part. The full title is: Verwaltung, Justiz, Rechtsweg, Staatsverwaltung und Selbstverwaltung nach englischen und deutschen Verhältnissen.

[2] Der Rechtsstaat und die Verwaltungsgerichte in Deutschland. A second enlarged edition appeared in 1879. There is an Italian translation by del Artom, Lo Stato secondo il diritto, 1885.

[3] For example: Das englische Grundsteuersystem (an advance instalment of his Englische Communalverfassung), 1859; Soll der Richter auch über die Frage zu befinden haben, ob ein Gesetz verfassungsmässig zu Stande gekommen? 1863; Budget und Gesetz, nach dem konstitutionellen Staatsrecht Englands, 1867; Freie Advocatur, die erste Forderung aller Justizreform in Preussen, 1867; Die Selbstverwaltung der Volksschule, 1869; Die preussische Kreisordnung, 1870; Vier Fragen zur deutschen Strafprocessordnung, 1874; Ueber den Entwurf einer deutschen Strafprocessordnung, 1876; Zur Steuerreform in Preussen, 1878; Gesetz und Budget, constitutionelle Streitfragen aus der preussischen Ministerkrisis, 1879; Zur Verwaltungsreform und Rechtspflege in Preussen, 1880; Die preussische Finanzreform durch Regulirung der Gemeindesteuern, 1881.

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phrases also. Gneist, however, would have deemed it a waste of time to search for different ways of saying the same thing. If he found it necessary to describe again occurrences or tendencies which he had described before, he did it in the same words as before; and when he had settled on the phrase which to him best expressed a certain idea, he used it not only to the end of the chapter but to the end of his life. He was preaching to a nation a political gospel, line upon line, precept upon precept, and simple iteration deepened the impression without blurring it. No collection of his miscellaneous writings has been made, nor is it likely that posterity will demand one; but selections from these writings are preserved in condensed and imperative form in the laws of Prussia and in those of the German Empire.

The character of Gneist's writings makes it easy, in spite of their great volume, to disengage the principal political ideas which they contain; but to make these ideas completely intelligible to English or American readers it is necessary, in many cases, either to abandon Gneist's form of statement, at the risk of failing to give full expression to his thought, or to explain the peculiar sense which he attached to certain words and phrases—a sense so different from that in which we commonly employ them as to make his language, to other than German readers, obscure or even misleading. When, for example, he described certain tendencies in a nation as "social," he did not mean that they made for the good of the nation, but the opposite: they were tendencies which we should describe as anti-social. Neither did he mean that they were socialistic: on the contrary, the tendencies which he reprehended as social were, in most cases, tendencies of the property-holding classes. Behind his use of the words "society" (*Gesellschaft*) and "social" (*gesellschaftlich, social*) lay a whole system of social philosophy.

This system was not of his own making. For a German, Gneist was not much of a philosopher. His aims were highly practical, and his close touch with life as a judge and a politician checked, in his case, that tendency to the overvaluation

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of abstract concepts which was so common in Germany in the nineteenth century. Regarding "philosophic constructions" in public law he occasionally used language as disrespectful as that employed by Jhering regarding similar constructions in private law. The constructions, however, which Gneist disliked were those of the older natural-law type. Constructions that were, or seemed to be, based upon "positive knowledge of things"[1] — constructions, especially, that were derived from the study of history — were as attractive to him as to the other members of the German historical school. In the writings of Lorenz Stein he found a social philosophy which appealed to him and which he thenceforth used. It was from Stein's point of view that he originally approached the study of English constitutional history,[2] and to the end of his life he expressed his political ideas in Stein's phrases.[3] For this reason, and also because of its intrinsic interest, Stein's system deserves a somewhat careful examination.

IX.

Stein's social philosophy was elaborately set forth in 1850, in his *History of the Social Movement in France*,[4] a study of the French revolutions from 1789 to his own time. The value which the author attached to concepts is indicated by his remark that "the knowledge of human things differs from other knowledge in that the single facts have no value if

[1] History of the English Constitution, Preface, p. iv.

[2] *Cf.* Adel und Ritterschaft, p. 55; Der Rechtsstaat, p. 333; History of the English Constitution, Preface, p. iv. *Cf.* also Gneist's letter to Stein, published in Haimerl's Oesterreichische Vierteljahresschrift für Rechts- und Staatswissenschaften, XVIII, Literaturblatt, p. 56.

[3] Die nationale Rechtsidee von den Ständen und das preussische Dreiklassenwahlsystem, 1894, *passim*. The English reader will find an elaborate restatement of Stein's theories in the first portion of Gneist's English Parliament.

[4] Geschichte der socialen Bewegung in Frankreich von 1789 bis auf unsere Zeiten. The work consists of three volumes with separate titles: I. Der Begriff der Gesellschaft und die sociale Geschichte der französischen Revolution bis zum Jahre 1830. II. Die industrielle Gesellschaft: der Socialismus und Communismus Frankreichs von 1830 bis 1848. III. Das Königthum, die Republik, und die Souveränetät der französischen Gesellschaft, seit der Februarrevolution 1848. A second edition, from which I quote, was published in 1855.

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they be not comprehended in the unity of a concept."[1] His concept of the state is thoroughly Hegelian: the state is "the community (*Gemeinschaft*) manifesting itself in its personality as will and act."[2] The state, however, is not the only form in which the community manifests itself; in its economic organization it possesses "an equally solid, equally vast and equally powerful organic unity,"[3] and this unity is society (*Gesellschaft*). Stein's state and Stein's society are in perpetual conflict, because they represent opposing principles. The principle of the state is to secure the highest possible development — *i.e.*, the greatest possible wealth, power and intelligence — of all its individual members, because the degree of development attained by its members is the measure of the development attained by the state itself. The state must desire, further, that each of its members participate in forming its will, both on its own account, because the sum of human insight is always greater than the greatest insight of any individual, and on account of the individual, because of the educating and elevating influence of political liberty. The principle of the state, therefore, demands progress through liberty towards equality; and in pure theory, as Stein recognized, the democratic republic is the ideal form of the state.[4]

Stein's society, *i.e.*, the community in its economic organization, exhibits tendencies precisely contrary to those of the state. Property, which is at once the product of labor and the basis of further production by labor, invariably concentrates itself in the hands of a part of the community; and those members of the community who have only labor power become dependent on those who have property. Family and inheritance perpetuate this inequality and divide society into more or less permanent classes; and the propertied class strives, more or less consciously, to perpetuate and increase its own power and the dependence of the laboring class. Class interest is the active principle of society, and its necessary tendency is through inequality toward the destruction of liberty.

[1] Begriff der Gesellschaft, p. xii. [2] *Ibid.*, p. xv. [3] *Ibid.*, p. xxviii.
[4] Das Königthum, die Republik, *etc.*, pp. 133 *et seq.*

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What now is the course and what is the outcome of this conflict of tendencies, or, to use Stein's own language, of this antithesis of principles? As soon as we descend from the airy region of concepts and consider actual conditions, the field of conflict is shifted and the character of the conflict is changed. The conflict is not fought out between state and society; for the state, regarded as an organization independent of society, is "a pure concept."[1] No such state has ever existed. The actual state is always based on society, and it is always controlled by society. This control is inevitable, because the state can will and act only through individuals, and every individual brings with him into his activity as legislator or administrator the views and tendencies of his social class. More precisely, the control of the state by society is its control by the propertied class, because in this class is chiefly to be found the ability required for public office. This rule of the propertied class, however, is not inconsistent with the principle of the state. That principle does not require the abolition of the social order, but only the effort to raise the dependent and unfree into independence and freedom. What is distinctly contrary to the principle of the state is the misuse of the power of the state by the propertied class to perpetuate the dependence of the laboring class and to make it impossible for members of that class to struggle up into the ruling class. To this misuse of political power, however, the ruling propertied class is always prone. It not only denies to those who have no property any active participation in the state, but it shapes law and administers government in its own interest.

Changes in the organization of the state, whether they are accomplished by reform or by revolution, are always the result of a want of correspondence between the political and the economic organization of the community. They are caused by the fact that those who have wealth, and are thus socially independent, are excluded from participation in the state. When the change is accomplished by revolution, the holders of new wealth commonly secure the aid of the laboring class by

[1] Begriff der Gesellschaft, p. xlviii.

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preaching liberty and equality; but in the end this class is excluded, as before, from political power. Without social (*i.e.*, economic) independence, political liberty is impossible.

In the actual world, accordingly, the conflict for liberty must be waged in society; and the prize aimed at must be, not liberty for all, which is unattainable, but the chance of liberty. The principle of the state shrinks to the modest demand that the possibility of acquiring property and influence in the state shall be kept open for the laboring and subject class. But how is even this end to be realized, when its realization involves the sacrifice, by the propertied and ruling class, of a part, at least, of its class interests? It is hinted, early in the discussion, that the solution is to be found in a principle higher than that of the state or that of society — in the principle of the community. In Stein's philosophy the community is the higher unity which comprehends both state and society; and while the tendency of the state is toward the independence of all its members, and that of society towards the dependence of the majority of its members, the principle of the community is the interdependence of all its members.[1] If labor is dependent on property, property in turn is dependent on labor. Property yields income only through the coöperation of labor. Harmonious coöperation cannot be secured, if the members of the laboring class work without hope of bettering their position. It is, accordingly, in the interest of property that labor shall yield to the laborer something more than the mere necessities of existence. This higher interest, it must be admitted, is seldom recognized by the propertied class, because the immediate and obvious interest of this class lies in the exploitation of the laboring class. Its members, however, may be somewhat enlightened by agitation; and social reforms that are really in its own interest, as well as in that of the laboring class, may be carried through by legislation. This is where the state comes in again, and particularly the state with a king at its head. The hereditary king stands above society and is therefore in a

[1] "Das für einander Vorhandensein der Einzelnen in der Vielheit ist die Gemeinschaft." — Begriff der Gesellschaft, p. xiv.

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better position than any other human being to conduct reform movements to a successful issue; and if the king undertakes this task, monarchy, even in a constitutional state, may preserve something of the substance of political power,[1]

Stein's society, the reader will note, is as pure a concept as his state. It is an abstraction, like the "economic man"; it is, in fact, the sum of all the members of the community considered as economic beings. Such an abstraction is perfectly legitimate. It may be a useful counter in our social reckoning. Its usefulness, however, depends upon the way in which it is used. The use made by Stein of this particular abstraction is to discover the tendency of economic society. This society is studied in action, and particularly in its action upon the state. As soon, however, as its action is examined, we perceive that it is never the whole body that acts: it is always a class, and usually the propertied class. To term the interests and tendencies of this class "social" is inexact and confusing, because it suggests that they are the interests and tendencies of the entire body. Stein not only does this, he goes further: he actually accepts this self-suggestion. Because the chief interest of the dominant propertied class, which is domination, tends to prevail over the chief interest of the dependent laboring class, which is independence, the interest of the former class, disguised under the generic term "class interest,"[2] is declared to be "the active principle" of economic society; and the result of the conflicting interests and tendencies of the two classes, *viz.*, the increasing dependence of the laboring class, is declared to be the tendency of that society. In other words, a tendency which manifests itself *in* economic society is presented as a tendency *of* that society. This is hardly worthy of a philosopher who has undertaken to comprehend the facts of human life "in the unity of a concept," since it is in fact from the duality of his concept[3] that his results are derived.

[1] Begriff der Gesellschaft, pp. xxxvii, xxxviii; Das Königthum, die Republik, *etc.*, pp. 45–49.

[2] *Cf.* Begriff der Gesellschaft, pp. xl, xli.

[3] It is singular that Stein should not have perceived that he was using the word "society" in two senses, for the double meaning with which he charged it

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This criticism, however, touches the form rather than the essence of Stein's theory. Stripped of its philosophical trappings, his theory gives us, primarily, an estimate of the tendencies of man as an economic being acting in an economic organization, *viz.*, the class. The theory, however, does not stop here. It considers also the tendencies of man as a citizen, acting in the state; and it takes into account, however slightly and inadequately they are presented, the tendencies of man as a moral being, acting in the community. Finally, the theory indicates, not formally in any one passage but by assertion and implication in many passages, the resultant of all these different tendencies; and this is the triumph, all along the line, of the economic side of human nature. The propertied class, which is dominant not only in the economic organization of the community but also in its political organization, does not feel or think or act politically or morally, but always economically. It rules in the state but it does not consider the ends of the state. It is the only factor that counts in the community, but even as a portion of the community it is unaffected by sympathy or conscience or any other moral influence, except when the line of conduct supported by such feelings happens to coincide with its own ultimate interests. The theory assumes the prepotency of economic interests in determining the conduct of the individual, and derives from this assumption the supremacy of the interests of property in society, state and community.

Gneist constantly used Stein's phrases and never, to my knowledge, wrote or spoke of Stein's system with anything but

involved him in contradictions. His society is distinguished from his state in that the state is personal, while society is impersonal; in that the state has a will, while society has none. But in one passage we are told that both state and society "will definite ends" ("wollen ein Bestimmtes" — Begriff der Gesellschaft, p. xxxiii); and in another passage — that in which the principle of society is first formulated (p. xxxviii) — the question is put: "How can that which is impersonal have a principle of action?" and this question is begged by the answer that society acts through individuals. Stein here forgot that he had said the same of the state, — that it acts only through individuals, — and he failed to answer the question he had just proposed, which was really: "How can the economic organization determine the direction of its action, *i.e.*, how can it will?" The explanation of these contradictions is, of course, that when he speaks of society as willing or acting, he is thinking of the dominant class.

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approval; but he made significant additions which rendered his own system much less one-sided. To the political and economic organizations of the community he always added the ecclesiastical. The Christian church is a make-weight against the undue power of wealth; like the state, it makes for liberty and equality and resists the exploitation of the poor. It does this, at least, as long as it is true to its mission.[1] Like the state, the church is liable to be captured and controlled by society, *i.e.*, by property interests; but this is a pathological, not a normal, condition; and when it occurs, there is likely to be a reformation.[2] The same is true of the state: it is not normally controlled by property interests. In Gneist's theory, as in Stein's, it is natural that the propertied classes shall rule in the state; but, according to Gneist, it does not follow that they shall rule the state itself, making its power subserve their economic interests. If they do this, there is likely to be a reassertion of the idea and of the power of the state. In Gneist's system church and state stand over against society as independent factors, influenced indeed by the social basis on which they rest, but themselves influencing society and, in case of need, building their social bases anew.[3] The church educates men to morality; the state trains them to political consciousness. Both deal, in their work, with instincts quite as deeply rooted in human nature as are the economic instincts. Gneist's writings differ greatly from Stein's in the value ascribed to duty as a motive. In Stein's book moral considerations are rarely mentioned; and when they are mentioned, they are presented as the cloak of class interests. To Gneist, duty was as imperative as it was to his countryman Kant, and he assumed that it appealed in a similar way to his fellows.[4]

[1] Rechtsstaat, pp. 5–13; Eigenart des preussischen Staats, p. 6; History of the English Constitution, I, 84, 104; II, 699, 700; Stände und Wahlsystem, pp. 15 *et seq.*

[2] Gneist accounted for the Protestant Reformation in this way. — Rechtsstaat, p. 100; Eigenart des preussischen Staats, pp. 8, 9; Stände und Wahlsytem, pp. 46 *et seq.*, 174 *et seq.*

[3] See, especially, Stände und Wahlsystem, pp. 15, 170.

[4] "In the coarsest man, deep sunk in selfishness and materialism, we often see an unexpected awakening of sympathy and conscience and a return to the fulfillment of human duties." — Rechtsstaat, p. 328. *Cf.* Stände und Wahlsystem,

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There are other points of difference on which I can only touch. In Stein's system, no special place is made for the educated class. "Spiritual goods" are recognized, but they are treated merely as means for obtaining material goods; and it is assumed that, as soon as the clergy and the other professional classes acquire property, their sentiments and tendencies become substantially identical with those of landholders and capitalists. In Gneist's writings, much greater importance is attached to the educated class. Not only is the clergy treated as something more and something other than a section of the propertied class, but the same view is taken of the professional officials of the state and of the professional classes generally. Finally, while there are in Stein's system but two really important classes, the Haves and the Have-nots, in Gneist's books there is discernible, between wealth and poverty, a middle class, and to this class is attached something of the importance usually attributed to it by writers on politics.

X.

Of all the additions which Gneist made to Stein's theory, that on which he most insisted is the power of the state to make men political — to imbue them, as he expressed it, with the "consciousness of the state" or, more simply, with "practical knowledge of the state and the right feeling for it."[1] It is able to do this by holding them to the personal performance of public duties. If it so shapes its institutions as to draw into its service all of its citizens who are capable of serving it, it will succeed in educating to its ends not individuals only but whole classes. If it distributes the burdens of its service according to the capacity of its citizens to bear them, the heaviest burdens will fall upon property. If it gives political power to those who bear its burdens in proportion to the burdens borne, it will intrust governmental authority chiefly

pp. 12–16. When Freund (Thaten und Namen, p. 20) asserts that Gneist regards men as the slaves of purely egoistic motives, he is misled by Gneist's uncritical use of Stein's phrases.

[1] History of the English Constitution, II, 438.

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to the propertied classes. These, however, under such a system, do not rule as propertied classes; they rule by right of service.[1] They may misuse their power, at times, to promote the interests of the classes to which they belong, but they will not do so in the long run, for by the habitual performance of public duties they are trained to "right feeling." This is Gneist's "harmony of state and society"; and this, and not conflict, is the normal relation between his society and his state.

It follows that social classes are not, as Stein maintained, purely economic products. In harnessing them into its service the state modifies not merely their instincts and aims, but their structure. In England, for example, as Gneist pointed out in his first work on English constitutional development,[2] the country gentry and the burgesses were brought together by the state into a single class, the Commons; and this he pronounced the most striking event in English history. The organization of society by the state and for the state is not only possible, it is necessary; and the chief problem of the modern state is to find the proper organization (*Ordnung*) of modern industrial society.

It follows, again, that in a properly organized state parties are not social, as Stein regarded them, but political; that they do not represent conflicting class interests, but divergent views concerning public policy. The appearance of purely social parties is a symptom of disease in the body politic; it indicates the necessity, to use Gneist's own phrase, of a "recombination (*Wiederverbindung*) of state and society," *i.e.*, a readjustment of services and powers, duties and rights.

As a means of educating men to right views of the state and the right feeling for it, nothing, in Gneist's opinion, can take

[1] According to Gneist, the propertied classes have never obtained power in the state by their wealth merely, nor even by the superior intelligence that is commonly associated with wealth. They have always had to earn power by service, and ordinarily they have served for generations before their position in the state has obtained legal recognition. They may indeed retain the power thus acquired for generations after they have ceased to serve; but sooner or later the state will be so reconstructed as again to apportion power according to service, rights according to duties. *Cf.* Eigenart des preussischen Staats, p. 14.

[2] Adel und Ritterschaft, pp. 32–34.

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the place of habitual personal service[1] — not the press, nor meetings, nor any other expression of so-called public opinion, nor even frequent elections. The press can only reproduce and emphasize, for each social class or group, its own thoughts, which are the expression of its own interests. Public meetings bring together only those who are already in sympathy and agreement.[2] In a community untrained by public service, what is called public opinion is only class opinion; there is no public opinion. A semblance of public opinion may be created by concealing inconsistent views and divergent tendencies under platform phrases[3]; but when the attempt is made to translate these phrases into facts, it becomes evident that they represent no "energetic total will."[4] Voting has no intrinsic educational value: "never in all the centuries have mere elections produced political sense or capacity for public activity."[5] Election is essentially a social device, a method by which groups of men associated for common purposes find agents to do their will. It is the method, for example, by which the joint-stock company organizes itself and obtains officers. To the citizen whose public activity is confined to paying taxes and voting at elections, the state may well seem a larger joint-stock company. There is nothing in the mere process of voting

> to enlighten men as to the difference between voluntary associations and political unions — between associations for what one can do and wishes to do, and unions for what one ought to do and must do. . . . For every people that is relieved of the burdens of direct and personal public activity, there is an empty space between the state and the individual — a void that is not to be filled by the reflection of individuals, nor by the interchange of thoughts in speech or writing, nor by the combination of these thoughts into philosophic systems.[6]

What Gneist most admired in the English polity and was most eager to see imitated in his own country was the way in

[1] "For the individual who confronts the state without responsible and personal activity in the service, the ego is the central point of the commonwealth. The existence of coördinate rights, views and interests is ignored." — Verwaltung, Justiz, *etc.*, p. 115.

[2] *Ibid.*, p. 60.

[3] *Ibid.*, Vorwort, p. vii; Repräsentativsystem, p. 166; Rechtsstaat, pp. 241, 245.

[4] Repräsentativsystem, p. 158.

[5] *Ibid.*, p. 161.

[6] *Ibid.*, p. 160.

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which England had utilized the services of the propertied classes in county and local government: the landed gentry acting as county magistrates, the yeomen and burgesses serving on juries and filling the parish offices and both meeting periodically at quarter sessions. The administration which they conducted—as it existed in the days before the first Reform Bill and still exists in part—Gneist termed "self-government," because the officials were not sent in by the central government but were selected from among the people of the locality, and because they did their work in an independent way with little intervention on the part of the ordinary courts and no interference on the part of the central administration. He was careful not to describe the system as "local" self-government, for he was especially anxious to have it understood that the functions intrusted to it were not solely or even mainly local. English self-government, he insisted, had never been anything but a branch of the general administration of the state.

> The county, borough and parish authorities are not empowered to develop and shape a local militia system, a local administration of justice, a local poor relief and local taxes, according to their own judgment and the local interests: all that they do is to discharge as officers and organs of the state the duties of the state as determined by law.[1]

Logically accordant, in Gneist's view, with this relation was the fact that the authorities of county and parish government were appointed, not elected; that the acceptance of office was compulsory, and that service was unpaid. All classes served the state according to the measure of their capacity because it was their duty. In the "honorary office" (*Ehrenamt*) Gneist saw the fullest and final expression of the just relation between wealth and service and between service and power. Election and voluntary and paid service were to him "social principles"; appointment and compulsory and unpaid service, political principles.

[1] Repräsentativsystem, p. 153.

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Gneist admired English self-government, further, because it was government according to law and thus constituted the firm substructure of the "jural state." Bit by bit, as he pointed out, all the details of local administration that were capable of legal regulation had been regulated by acts of Parliament, until by the patient labor of centuries England had obtained the most complete and most minutely detailed administrative law in the world. Hand in hand with this development went the transformation of the local offices into "jurisdictions." As the duties of the county authorities came to consist more and more in the application of written laws, these authorities became more and more judicial in their character. As police magistrates, the justices of the peace were judicial officers from the outset; but they were also charged with many administrative duties. In the discharge of these duties, in so far at least as their discharge affected the private rights of individuals, the procedure of the justices was surrounded more and more with the guaranties of judicial procedure: it was made formal, public and controversial. The most important result of this transformation was the protection of the individual against the misuse of administrative power; but a secondary result was an increase in the educational efficacy of self-government. All public service is of educational value, but the highest value attaches to service in the administration of the law, whether as juror or justice, because such service develops the sense of fair play.[1]

In all administration there is necessarily a wide field of discretion; and not all the functions intrusted to English county

[1] Some of Gneist's German critics have accused him of idealizing the English justices of the peace — of ascribing to them a freedom from class prejudice and a spirit of fairness which they did not possess. They have cited statements made by English writers, conveying a much less favorable judgment regarding these magistrates. *Cf.* Bornhak, p. xvii, citing Macaulay; also Freund, Thaten und Namen, p. 16, note 2. Gneist, however, instituted no comparison, as do these writers, between the English justices of the peace and the salaried professional judges either of England or of other countries. He compared their administration of police justice, from the fourteenth century to the nineteenth, with the manorial jurisdiction exercised simultaneously by the great landed proprietors on the continent, and he found it incomparably fairer and less oppressive. He compared them

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and parish authorities were susceptible of detailed legal regulation. In English self-government guaranties against the abuse of discretionary powers were sought (and, as Gneist believed, found) in the social position of the justices of the peace, in the sense of fairness developed in what was practically a life tenure of a quasi-judicial position and in the principle of joint action in all matters of importance.

The result of this whole development was decentralization of the most admirable sort: not decentralization of legislation, which is autonomy, but decentralization of administration. Under the laws enacted by Parliament and interpreted by the ordinary courts, English county and local government was practically self-controlling. The ordinary courts retained jurisdiction in questions of law; but in questions of fact and in matters of discretion the decisions of the justices of the peace in quarter sessions were final. The crown and its ministers ceased to interfere at all with the course of county and local administration, and Parliament ceased to intervene otherwise than by legislation. The local independence thus established was historically the result of the fact that the county authorities were socially independent by reason of their rank and wealth, and politically independent because they received no pay. The man who works without pay will commonly work in his own way or not at all. To these elements of strength must be added what Gneist called the "collegial" organization of the justices of the peace, *i.e.*, their constant association with each other at sessions and in boards, and the resultant *esprit de corps*.

as administrators with the paid officials who conducted the local administration in France and in Germany in the eighteenth and nineteenth centuries, and he conceded that they did not always do their work as efficiently; but this disadvantage was more than counterbalanced, in his opinion, by their independence, which made it difficult to use them as instruments of party policy. He compared, above all, the class to which they belonged with the landed aristocracies of France and Germany; and he found in the English gentry a sympathy with other classes, both in country and in town, a desire for even-handed justice to all, high and low, a respect for law and a sense of duty to the community, which he did not find developed to anything like the same degree among the seigneurs of France or the Junkers of Prussia.

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It was on this system of self-government, as Gneist constantly insisted, that the whole parliamentary system of government in England rested. Representation in Parliament was not granted to persons inhabiting a certain arbitrarily defined district; it was granted to neighborhoods organized for self-government. Parliamentary suffrage was not given to individuals as a natural right; it was given to those who discharged political duties. It was not given to property as such; the possession of property imposed duties of service, and the duty of service carried with it electoral right. Constituencies associated in self-government and educated by continual personal service, members of Parliament trained for the state by lifelong service in honorary offices, a people fitted for self-government in gross by self-government in detail — these were the elements that made parliamentary government possible; and parliamentary government, which is of course party government, was shielded against the sins which most easily beset it by the fact that the whole sphere of internal government was practically removed from ministerial control. These views of the character and the significance of English self-government so pervade all Gneist's writings that any selection of particular citations is at once difficult and unnecessary. One striking passage, however, deserves notice.

In the English administrative organism it is the intermediate structure of self-government which gives to the whole tension and life and to the single parts political independence. As it proceeded out of absolutism, so English administration would revert to the absolute form if the activity of the higher and middle classes in the self-administration of state functions should be brought to an end. After taking out this intermediate structure nothing would be left but a bureaucratized police-state.[1]

[1] Verwaltung, Justiz, *etc.*, p. 91. It may be noted that Gneist attributed the capacity of the American people for self-government to the institutions which the colonists brought with them from England, and particularly to the fact that American administration is so largely conducted by the people and not turned over to professional officials. Of our political capacity Gneist had a high opinion, founded largely, as he once told me, on his observation of his American students in the fifties. At that time he had in his lectures a considerable number of students from the South as well as from the North, and he repeatedly contrived to get them together at his own house and to set them to discussing the slavery question.

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The changes in this system that began in 1832 with the first Reform Bill and have continued to our day were, in Gneist's opinion, ill-advised and unfortunate. He recognized fully that the accumulation of new wealth unrepresented in Parliament necessitated a reform of the suffrage, but he disapproved of the innovation by which suffrage was made to depend upon a naked property qualification, without corresponding duties of personal service.[1] He recognized fully that some parts of the English internal administration had worked badly; but he believed that the defects could have been remedied without abandoning the principle of the compulsory unpaid services of the propertied classes. The occupation of the field of local government by a host of professional paid officials and the extension of central administrative control that accompanied this invasion, meant to him the passing of that old England that he admired. The collection of men untrained by personal service into elected councils which had only appointing, tax-voting and supervisory functions, and which could not intelligently exercise the latter functions because of their lack of practical experience — this was to him not self-government. The movement seemed to him an overrunning of the state by society.[2]

In these discussions he was much struck by the fairness and good temper shown on both sides. In his later writings he expressed a less favorable judgment regarding the development of our institutions.

[1] He believed that the difficult problem of the suffrage — a problem especially difficult in the cities — could have been solved by introducing the Prussian three-class system, making the members of the first two classes (those who pay two-thirds of the total direct taxes) liable not only to jury duty but to compulsory service in "honorary offices," and causing the members of the third class to elect representatives who should be charged with jury duty and bound to accept communal offices. Suffrage, according to his suggestion, should then be given to all the members of the first two classes and to the elected representatives of the third. (Verwaltung, Justiz, *etc.*, pp. 124, 125.) He also proposed the modification in the same sense of the three-class system in Prussia — a system which he disliked because it made suffrage independent of service and distributed voting power simply according to the amount of taxes paid. (*Ibid.*, p. 131.) He came back to this subject twenty-five years later in his Stände und Wahlsystem.

[2] For a study of both the old system and the new, *cf.* Goodnow, "Local Government in England" and "The English Local Government Bill," POLITICAL SCIENCE QUARTERLY, II, 638; III, 311. For Gneist's latest utterances on the subject, see Stände und Wahlsystem, pp. 149–169.

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With the political philosophy which was developed to justify and further these changes he had no patience. Instead of basing power on service and regarding all political powers as duties, *i.e.*, as trusts, it treated these powers, suffrage and eligibility to office alike, as human rights based upon interests. The only logical outcome of this view, he declared, was universal suffrage — not manhood suffrage merely, but a vote, personally or through a guardian, for every man, woman and child in the nation, not excluding lunatics, paupers and criminals, since all of these had interests to protect. The interests of the inmates of asylums, workhouses and prisons, he dryly added, were of all the most urgent, because most directly affected by government. Gneist found the fullest and most lucid expression of the new political philosophy in Mill's *Representative Government*, and in criticising this book he clearly formulated his own antagonistic views.[1] He maintained that the only logical outcome of Mill's theories was the Napoleonic constitution, and that this was "the universal constitutional idea of the new industrial society."[2]

Gneist was not the only person of his generation who had found the chief defect of continental constitutionalism in the centralization of governmental power. De Tocqueville had expressed similar views and had urged decentralization, and so had other writers in other countries. But Gneist was the first to set forth the true character of English self-government and to show clearly what it was not: not local autonomy, which dissolves the state into a multitude of petty republics; not a descending series of provincial, departmental and local councils, equally incapable of conducting administration and of exercising any real control over the current administration conducted by professional officials; not manorial jurisdiction, associated with landed property. All these arrangements had been called self-government, and their respective advocates had imagined that their systems were at least akin to the English. Gneist's writings, Bornhak[3] tells us, put a stop to all these partisan appeals to English precedents.

[1] First in Repräsentativsystem, pp. 160, 161; more fully in Verwaltung, Justiz, *etc.*, pp. 52–60. [2] *Ibid.*, p. 60. [3] *Loc. cit.*, pp. iv, v, vi.

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XI.

What Gneist really thought of parliamentary government as developed in England, whether he considered it on the whole a good thing or a bad thing, is to be read rather between the lines of his writings than in the form of direct statement.[1] He attributed the establishment of parliamentary government to the folly of the Stuarts, and he would probably have assented to the statement that, if England had possessed, during the last three centuries, a dynasty as capable and intelligent as the Hohenzollerns, parliamentary government would have been neither possible nor desirable.

That he did not desire the establishment of parliamentary government in Prussia or in Germany until a thorough system of self-government in the localities should have trained the people for public life, is made clear in all his writings. His experience in public life could have led him to no other view. Germany has not yet developed the first requisite for party government; it has no parties. It has only fractions, which often dissolve and recombine like the colors in a kaleidoscope. The instinct for party organization and the recognition of the necessity of party discipline are almost wholly wanting.[2] He would doubtless have conceded that the organization of strong parties, capable of assuming rule, could not be expected until there should be a prospect that, if organized, they would have a chance to rule; but he would still have insisted that the parties would be social, rather than political, until self-government in the localities had done its perfect work.

Gneist's assertion that parliamentary government was impracticable without self-government in the localities did not,

[1] A fair statement of the advantages and disadvantages of parliamentary government is to be found in Gneist's article in Holtzendorff, pp. 1454–1456.

[2] Of this defect Gneist was at times irritably conscious. During the passage through the Imperial Diet of the protective Tariff Bill of 1879, I asked him one evening how his party had voted that afternoon on the second reading of the measure. "Fifty-one for and fifty against," he replied, and added: "That is a pretty party. The hundred might as well have hired cabs and driven about the *Thiergarten*."

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however, by any means imply that he regarded parliamentary government as even a distant goal of Liberal effort in his own country.[1] Many of his utterances indicate, on the contrary, that he assigned to monarchy permanent political functions. Like Lorenz Stein, he pronounced hereditary monarchy the purest expression of the state, because it raises the state above society. History, in his interpretation, shows that the bases of free states have always been laid by lawgivers invested with dictatorial or monarchic powers. It was so in the ancient world; it was so again in mediæval Europe. It by no means follows, however, that after the bases of the state have been established monarchy becomes superfluous. Great changes in the distribution of wealth and the resultant rearrangement of the social classes will always necessitate the readjustment of political and social relations, the "recombination of state and society." An elective assembly cannot do this work, for elective assemblies, particularly at such periods, represent interests; and the state cannot be built on a basis of interests: it must always be reconstructed, as it was originally constructed, on the basis of duties. The Norman monarchy laid the foundations of the English free state; the Parliaments of the nineteenth century undermined them. Prussian monarchy not only built the old Prussian state, but it also laid, in 1808, the bases for the new Prussia and the new Germany. It was to the Prussian monarchy that Gneist looked for the realization of his program of political reforms, because this program required the imposition of duties from which society would shrink; and it was the Prussian monarchy, as he afterwards declared, that had carried these reforms to a successful issue.[2]

One reason why Gneist had comparatively little to say regarding the question here raised — the question which exists

[1] He went furthest in his Stände und Wahlsystem, p. 271, claiming that the reformed Prussia possesses the firm bases "on which a House of Commons may develop into the highest council of the crown with a position of increasing power." This, however, does not mean parliamentary supremacy.

[2] *Cf.* History of the English Constitution, I, 16; Repräsentativsystem, p. 158; Eigenart des preussischen Staats, *passim*; Rechtsstaat, pp. 278, 279; Holtzendorff, p. 1465.

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in republics, as well as in monarchies, and which we usually describe to-day as that of the relative superiority of presidential, as compared with cabinet, government — was doubtless that many of his friends in the Liberal party in fact looked forward (as Bismarck always said they did) to the establishment of parliamentary control over the crown, not merely in legislation and in finance but in every branch of administration, and that Gneist, as a good politician, desired to live, so far as possible, in harmony with his party associates. As it was, he was quite at odds with most of them concerning the financial powers of Parliament and the doctrine of ministerial responsibility. To them the power of the legislature to vote appropriations seemed a power to prevent the government from spending a penny of revenue without the authorization of the legislature and a means of making the ministers responsible to the legislature. Gneist showed, again and again, that the English House of Commons, in making appropriations, had never attempted to deal with anything more than a certain "mobile part" of the governmental expenditures; that expenditures authorized by law must be made, according to the English theory, until the law was changed; and that the refusal of subsidies to a mediæval king was a very different thing from an attempt to bring all the necessary work of the modern state to a standstill.[1] He drew a sharp distinction between the political responsibility of ministers to the legislature, which meant that system of parliamentary government for which neither Germany nor Prussia was prepared, and their legal responsibility, which meant that they ought to be amenable to legal procedure in case they should violate the law.

The chief reason, however, for Gneist's relative silence regarding the abstract desirability of parliamentary government was, doubtless, that constitutional problems were to him of less interest than administrative problems. To him, as to many jurists, political liberty seemed less important than legal liberty, *i.e.*, the protection of the personal and property rights of the individual. These forms of liberty, of course, are not

[1] Budget und Gesetz, 1867; Gesetz und Budget, 1879; Rechtsstaat, p. 343.

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only distinct in theory, they are also separable in fact. Legal liberty may be effectively protected under governments of the absolute type, as was the case under the Antonines in the second century and under the Hohenzollerns in the eighteenth; it may, on the other hand, be trampled under foot by governments as popular in their constitution as was that of the French Convention. Legal liberty, as Gneist was never weary of insisting, is a thing that depends mainly on the kind and degree of control to which the administration is subjected, because the chief points of collision between government and private interests occur in the field of administration. The control must in first instance be legal, *i.e.*, the law must declare what the officers of administration may do and what they may not do. It must in second instance be judicial. The most admirably devised bills of rights will be vain things, and even detailed legal provisions intended to carry out the principles formulated in such bills of rights will be of uncertain efficacy, if the interpretation and enforcement of the law is left to administrative officers acting simply as administrative officers. The interpretation and enforcement of the law must be intrusted to authorities whose position and tenure make them independent of the administration and whose forms of procedure and decision are judicial. The ordinary courts, if properly constituted, are of course such authorities; but they are not the only possible authorities of the kind. Officers of the administration who are intrusted with judicial functions, whose procedure is judicial in its form and who enjoy the same independence against the central administration that is conferred upon the ordinary courts, become judicial officers, and permanent boards composed of such officers become courts. To what extent the interpretation of the law shall be left with the ordinary courts, to what extent it shall be intrusted to administrative courts — in other words, just how the judicial control of the administration shall be divided between these two classes of courts — is a secondary question, a question in the main of expediency.[1] The chief

[1] *Cf.* Goodnow, "The Executive and the Courts," POLITICAL SCIENCE QUARTERLY, I, 533.

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thing is that the courts, whether ordinary or administrative, shall be really independent, and that they shall be intrusted with the powers necessary to protect individual rights against administrative power. Any state in which the rights of the individual are thus safeguarded against the administration by proper laws, interpreted and enforced by independent judicial authorities, is what Gneist calls a "jural state."

To us, on this side of the ocean, it seems that we have gone a step further. The jural state protects the individual against the misuse of administrative power; our constitutional state (a term to which we have given an entirely new meaning) seeks to protect the individual against the misuse of legislative power. Gneist, however, thought that this device of ours — safeguarding private rights by constitutional provisions and intrusting the enforcement of these provisions to the courts — was indeed a fair substitute for the conservative influences of monarchy and aristocracy, but that the inflexibility of our constitutional law unduly hampered legislation.[1]

The state that is not jural — the state in which, on the contrary, the protection of private rights is subordinated to considerations of public policy — is termed by Gneist the "welfare-state." Of this sort of state he found a typical example in France. The French failure to realize the jural state was ascribed by him in part to the national temper. When a great public end is to be gained, it is hard for a Frenchman to understand why such little things as private rights should be regarded, or why the courts should be permitted to impede the realization of the general will and the promotion of the general welfare. In this they are true to the Latin tradition which has always subjected *iurisdictio* to *imperium*.[2] The French point of view, however, is not peculiar to France; it is the natural social point of view. It is shared by every society that has not been educated by personal service to political consciousness. The French temper is largely ascribable to the defective character of French institutions, and the defects in these institutions are explained by the

[1] Soll der Richter, *etc.*, p. 23.
[2] Verwaltung, Justiz, *etc.*, p. 180.

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history of the French state. The French monarchy did not harness the ruling classes of the feudal period into the service of the state. It did not impose upon them governmental duties, but simply thrust them aside or bought them off with privileges; and it secured the performance of the necessary functions of the state by hiring soldiers, judges and administrators. In restoring and perfecting the administrative system of the old monarchy, Napoleon acted completely in accordance with the will of the sovereign people, who knew no other mode of governing.[1] When, in the nineteenth century, the attempt was made to combine parliamentary government with this bureaucratic administration, private rights were exposed to greater perils than had menaced them under the old monarchy or under the dictatorship of Napoleon. The power of the centralized administration began to be used, not simply to carry out the purposes of the state, but to further the interests of parties, to reward the faithful, to punish the disaffected and, above all, to carry elections. For the protection of private rights France possessed, indeed, a highly developed system of courts. Even under the Second Empire, the ordinary courts were apparently independent of the administration, since the tenure and pay of the judges were secured by law; but the administration placed these judges where it pleased, transferred them, not simply from one court to another, but also from one section or chamber to another, and thus controlled the composition of the chambers by which special classes of cases were tried. In criminal procedure, moreover, where conflicts between private rights and public or party interests occur more frequently than in civil procedure, prosecution was in the hands of officials appointed and removed by the government; the preliminary investigation was conducted by a judge designated by the government; the bench that tried the accused was a bench constructed by the government, and the jury was a "committee of persons enjoying the confidence of the prefect." Certain precedents and considerations of decency restrained the government in the use of its power over the judiciary, but it was

[1] Verwaltung, Justiz, *etc.*, p. 181.

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precisely when the abuse of this power was most dangerous that these safeguards became ineffective.[1]

The French administrative courts are admirably devised "to secure continuity of practice in the administrative field." They afford also a high degree of protection to property rights. In the Council of State, which is the highest administrative tribunal, the forms of judicial determination are scrupulously observed. The personnel, however, of the administrative courts and the composition of the sections of the Council of State by which controversies are decided are controlled by the ministry. In opposition to English practice, it is, moreover, the administration that raises all questions of competence between the civil and the administrative courts: cases are not removed from the administrative jurisdiction to the ordinary courts, but *vice versâ*. Jurisdiction in questions of public law is almost wholly withdrawn from the ordinary courts and vested in the administrative courts. All this is in accordance with the principle of the separation of powers and secures "the independence of the executive branch." But the independence thus secured is practically supremacy.[2] The chief defect, however, in the French polity, as Gneist always insisted, is the lack, in the localities, of that self-government which not only makes internal administration independent of changing majorities and ministries but also trains the people to the right feeling for the state.[3]

Gneist's categories of the jural and the welfare state may be criticised on the ground that the distinction which they represent is not absolute, but relative. Every civilized state is more or less jural, and every civilized state is more or less a welfare

[1] Verwaltung, Justiz, *etc.*, pp. 181, 182. Gneist's criticism of the French judicial system was well founded for the period of the Second Empire; but the conditions were not so bad between 1820 and 1852, and in the present republic the courts and the juries have again been made independent of the administration. *Cf.* Flourens, Organisation judiciaire et administrative de la France, 1814–1875.

[2] Verwaltung, Justiz, *etc.*, pp. 182–184.

[3] *Cf.* Rechtsstaat, pp. 158–190. The decentralizing movement which was under way when Gneist published the second edition of the Rechtsstaat, and which has since been carried further, has not established what Gneist called self-government. The existing French system resembles that newer system of English local government which he regarded as an abandonment of self-government.

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state: the difference between the two classes consists in the predominance of one or the other tendency. In his distinction there is, nevertheless, an element of universal and permanent truth. If we substitute for his jural state our constitutional state, which to us is simply his jural state raised to a higher power, his welfare state remains the expression of the opposite tendency; and the chief problem which the rule of our insular territories has forced upon us may be expressed in the terms of this antithesis. We are face to face with the question whether we, like the Romans, shall subordinate law-finding to empire. Fortunately for us, the decision, which is not yet rendered, rests not with the administration nor with Congress, but in the first instance with our highest court of justice and in the second instance with a people who, if Gneist's judgment was not mistaken, possess in a fair degree the jural consciousness.

XII.

In 1859 Gneist reëntered active political life as a member of the Prussian Chamber of Deputies, and in 1867 he became a member of the newly created Imperial Diet also. Reëlected with unfailing regularity for many years to both bodies, he was henceforth in a position to urge more effectively the reforms he had at heart. During the first seven years of his parliamentary life, however, the Prussian government and the deputies were not in such harmony as to make reform legislation possible. It was a time of internal conflict, during which the king reorganized the Prussian army in defiance of a hostile majority in the Chamber, and his ministry collected and disbursed the revenues of the state without parliamentary authorization. It was also a time of external conflict, during which the German question was solved by the expulsion of Austria from the German confederation and the establishment of a new federal state under Prussian hegemony. In the internal conflict Gneist took an active part, opposing as resolutely as any of his Liberal associates the unconstitutional acts of the ministry, but filing from time to time separate dissenting

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opinions, in the form of speeches and pamphlets, to explain the grounds of his opposition. He did not fully share, as we have seen, the prevailing Liberal opinions regarding the financial powers of a parliamentary body; and he preferred to base his opposition to the ministry on the ground that in enlarging the army without the consent of the Chamber they were modifying by ordinance the conditions established by law. When Bismarck solved the German question, — a result at which Gneist was as much surprised as any of his Liberal associates, — Gneist went with the more moderate portion of his party into the new National Liberal party, which accepted Bismarck's generous terms of peace and acted in general concert with him for the next twelve years. Much as he came to admire the great chancellor, Gneist could never quite forget the bitterness of the years of conflict; and he always maintained — I have heard him assert it in the lecture room — that Bismarck solved the German question only because, in his contest with the Prussian Chamber, he had been forced into an *impasse* from which nothing but a successful foreign war could extricate him.

With the termination of the conflict and the establishment of harmonious relations between the Liberals and the government began a period of great legislative activity, in which Gneist took an important and, in some instances, a decisive part. His chief aim, of course, was the reform of Prussian local government. This problem was simplified, in his view, by the fact that the leading principles of self-government, as he understood them, had already been introduced into the government of the Prussian cities by the famous ordinance of 1808. Its author, Baron Stein, was himself familiar with English local government and had appreciated its essential features; and in the ordinance of 1808 he had given the cities an independent administration based on the compulsory and unpaid service of non-professional officials. The problem, in Gneist's opinion, was, therefore, to extend Stein's system of city government, with such modifications as might be required, to the open country. At the outset, however, hardly any one else viewed the matter in this way. Every one

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was in favor of self-government in the localities, but there were great differences of opinion as to the meaning to be attached to the phrase. The Conservative party demanded the maintenance and extension of the manorial police system, which still survived in the eastern provinces. The Liberals generally desired the maintenance of professional service under a popular control, to be exercised by elected councils of the French type. The Prussian bureaucrats themselves desired to go on governing with much less interference on the part of the ministry. Gneist, however, found as early as 1868 a supporter whose single voice was easily worth the opinion of any one of these groups — the Prussian minister-president. A memorial drafted by Gneist in the summer of that year was presented by Bismarck to the ministry;[1] and although at the outset Gneist's plans found no other supporter, a bill abolishing manorial jurisdiction and creating a system of what we should call county and local government was gradually worked out, and this bill, after three years of discussion, became law in 1872.[2] It was first put into force in the eastern provinces of Prussia and then gradually extended with modifications to other provinces. Further laws passed in 1875 and 1876 reorganized the provincial administration on similar lines. Except that election was made to play a larger part than Gneist desired in the creation of the local and provincial authorities, and that the system was made more complex than he wished, these laws substantially realized his chief aims. They certainly represent a serious attempt to draw the well-to-do classes into the service of the state and to give them, through compulsory service, that political training which Gneist believed could be obtained in no other way. They represent also a serious attempt to make local government independent of central bureaucratic control.[3]

[1] Rechtsstaat, p. 359. The substance of this memorial was published by Gneist in 1870, under the title, Die preussische Kreisordnung. *Cf.* Gneist, "Les Reformes Administratives en Prusse," in the *Revue Générale de Droit, etc.* (Bucharest), I, 251. For the history of the reform see also his Verwaltungsreform in Preussen (1880) and Stände und Wahlsystem, pp. 208–215. [2] Kreisordnung, von, Dec. 13, 1872.

[3] For details of the reform, *cf.* Goodnow, "Local Government in Prussia," POLITICAL SCIENCE QUARTERLY, IV, 648; V, 124.

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These laws provided at the same time for a reorganization and reform of administrative jurisdiction substantially in accordance with Gneist's ideas. As late as the beginning of the nineteenth century the Prussian administrative system was organized in a manner that gave very substantial protection to private rights; but the Stein-Hardenberg reforms and later laws based on French parliamentary theories so increased the power of the Prussian ministry as greatly to weaken the independence of the lower administrative instances; and, in consequence of the abolition of the Council of State, the final interpretation of law in administrative questions was placed wholly in the hands of the ministers. In connection with the reform of local and provincial government, from 1872 to 1876, administrative courts were organized in which the non-professional elements, the "honorary officers," have the controlling voice; and for final decision of all cases involving the interpretation of public law, and not falling within the competence of the ordinary courts, a superior administrative court was established at Berlin, with the same guaranties of independence and impartiality that exist in the case of the ordinary courts. Of this new court Gneist was very properly made a member.

To the control of the administration by law, Gneist regarded it as essential that the ordinary courts should have power to disregard an ordinance which trenched upon the field of law; and it was, in his opinion, one of the chief defects of the Prussian constitution that, in accordance with the Latin theory and in imitation of constitutions of the French type, it withheld this power from the judiciary. This mistake, however, was not repeated in the imperial constitution; and in Prussia the attribution of this power to the superior administrative court substantially remedied the evil, since the decision was taken out of the hands of the ministry and intrusted to a judicial body. It was essential, again, in Gneist's opinion, to the legal control of the administration that officials by whose acts or laches private persons had suffered in person or in purse should be subject to the ordinary processes of law —

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not, of course, on account of injudicious exercise of their discretionary powers, but for acts beyond their competence or for neglect of their legal duties. In Prussia and in other German states, the liability of officials to civil suits and to criminal prosecutions had been unduly limited by laws passed during the first six decades of the nineteenth century. By imperial legislation, adopted in 1877, all these limitations are annulled or rendered innocuous.[1] At the same time, the administrative "monopoly of criminal prosecution," which Gneist had frequently reprehended, was modified by the imperial code of criminal procedure, which provides that, if the public prosecutor refuses to act, the injured party may apply to the highest state court or, in cases falling within the competence of the Imperial Court, to that tribunal, and that the court may order the prosecution of the alleged offender.[2]

It avails little to subject the administration by law to judicial control, if the judiciary is in law or in fact controlled by the administration. In Prussia, as Gneist repeatedly pointed out, the judiciary had been subjected, since 1851, to a ministerial control that really destroyed its independence. Not only had the Napoleonic device been introduced, by which the minister of justice placed judges where he pleased and formed the chambers into which the higher courts were divided, but the judges had also (again in imitation of the French practice) been made subject to disciplinary proceedings conducted by the administration; and the powers thus conferred upon the ministry had been employed, during the Conservative reaction and during the period of conflict, with a disregard of decency unexampled in France.[3] The return of such conditions was made impossible, and the independence of the judiciary was secured against all assaults, by the imperial law of judicial organization passed in 1877. In addition to the ordinary guaranties of judicial tenure and salary, it is provided in this law that judges may not even be retired on partial or full salary except under the conditions

[1] Einführungsgesetz zum Gerichtsverfassungsgesetze, sec. 11.

[2] Strafprocessordnung, secs. 169–173.

[3] Verwaltung, Justiz, *etc.*, pp. 184 *et seq.*; Freie Advocatur, pp. 29–49.

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established by law or with their own consent, and that without their own consent they may not be transferred from one post to another, even when the transfer is a promotion. It is further provided that, while the number of chambers or senates in the state courts and in the Imperial Court is to be determined by the respective ministers of justice and by the imperial chancellor, the composition of these divisions and the distribution of business among them shall be determined by the courts themselves.[1]

Gneist had always maintained that by instinct and temper his countrymen were as well fitted as the English for self-government and the jural state. He had repeatedly demonstrated that the institutions of German absolute monarchy had never been as purely bureaucratic as those of France and that the idea of subjecting administration to law had never been permanently obscured. With the reforms above indicated, he felt that the chief bases of the jural state were securely laid.

There were, however, two things that still troubled him — two places in which the jural state was incomplete, both in Prussia and in the empire. Neither the ministers nor the army were subjected to due legal control. The ministers of the Prussian crown and the chancellor of the empire are declared, by express constitutional provisions, to be responsible; but neither in the Prussian nor in the imperial constitution, nor in any law, is it indicated to whom they are responsible or what their responsibility really signifies. Bismarck always declared that the Prussian ministers were responsible to the king, and the imperial chancellor to the emperor; and if the word be taken to mean politically responsible, his statement is true. Gneist took the word to mean legally responsible; and argued that if a minister or the chancellor violated the law, he ought to be impeached and tried. In the absence, however, of any law determining who may impeach and what tribunal shall try, he conceded that nothing could be done.[2] There the matter

[1] Gerichtsverfassungsgesetz, secs. 8, 61–68, 133.

[2] In Verwaltung, Justiz, *etc.*, p. 219, he expressed the opinion *de lege ferenda* for Prussia that the Chamber of Deputies should be intrusted with the impeachment, but that a special tribunal should be established for the trial, since the Herrenhaus was not the right sort of upper house for such cases.

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still rests alike in Prussia and in the empire: the constitutional provision, in each case, remains what Gneist called it — a *lex imperfecta*.

The second open place in the German jural state is what Gneist described as "the practical exemption of the military authorities from legal control" and "the consequences drawn from the fiction of 'a military class.'" "Conditions," he pleaded, "should not persist in which the life, health, freedom and property of the people are placed in the hands of the military authorities without legal protection or judicial control." The idea should be abandoned that the army officers form a separate class, and their special forum should be abolished, at least in the case of ordinary crimes. Courts of honor he pronounced unnecessary; the ordinary military courts can dismiss an officer for conduct unbecoming a gentleman. "The English aristocracy is certainly not insensible to the real point of honor."[1] It is not likely that Gneist expected to witness these reforms; but they remain, for all that, permanent demands of the German Liberal program, and they are sure to be realized in time.

Law books, like all other technical works, become antiquated. Of their contents so much as is permanently true reappears, often without acknowledgment or even recollection of its first presentation, in a series of sequent treatises, each of which, in its time, is up to date, and each of which, after its time, passes into oblivion. This fate will probably be shared by Gneist's great work on the English constitution.

The literature of reform is even more ephemeral. The more successful it is, the sooner it ceases to find readers. The names, indeed, of successful advocates of important reforms are often preserved in history; but even in this matter there is an element of luck. Gneist's part in the work of establishing self-government in Prussia is the more likely to be underestimated because the reforms of 1872–76 will be viewed, and rightly viewed, as the completion of the reform of 1808.

[1] Verwaltung, Justiz, *etc.*, pp. 258 *et seq.*; Verwaltungsrecht, pp. 571–576.

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Baron Stein will receive, in history, the credit of initiating the movement, Prince Bismarck that of completing it. In history the eminent results in any movement stand out with increasing clearness as they recede further into the past; but as they recede, they also draw nearer to each other, and the intervals shrink until sixty or seventy years in which nothing of consequence occurred seem as a day. It will therefore hardly be stated or even remembered by future historians that the origin and the meaning of Stein's reforms had to a great extent passed out of the consciousness of Gneist's generation; that in the middle of the nineteenth century the bases of municipal self-government which Stein had laid had been seriously weakened by unwise legislation; or that, for many years, Gneist was the only prominent advocate of the principles on which the reforms of 1808 were based.

Gneist's best title to remembrance will probably be found in his political doctrines. Had he possessed, as a writer, that indefinable quality which we call style, — a quality which often gives a long lease of life to a book that contains no ideas, and which causes a book that does contain ideas to be read for centuries, — he might have written a *Jural State* or some such book which would have made him one of the immortals. He would then not merely have been remembered as one of the most prominent representatives of the nineteenth century reaction against the exaggerated individualism of the time: he would have had a place forever among the great political teachers: for no man ever saw more clearly, felt more strongly or declared more insistently than he that states rest not on rights, but on duties, and that the citizen is not born, but trained; and these are permanent and fundamental truths that need to be reiterated to every generation.

MUNROE SMITH.

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TAXATION IN THE PHILIPPINES. I.

A BRIEF account of the principal revenues enjoyed by the Spanish government in the Philippine Islands during the three and a quarter centuries of Spanish rule may be of special interest at the present time. In the following outline an endeavor is made to select those features only of that revenue system which have a true historical significance, as distinct from those which have a mere antiquarian interest. The further effort has been made to select the salient features only and not to write an exhaustive account of all the tiresome vacillations of policy, due to the ignorance of the home government as to the conditions which existed in the islands. This account deals with the revenues of the central or insular government only and does not include local or municipal revenues.

It has become somewhat the fashion to speak ill of Spain's government in those of her dependencies which have passed under the rule of the United States and to see as little good in the Spanish laws as in their administration. But, in discussing the Spanish laws, apart from their administration, so far as they concern taxation in the Philippines, it would be a sad mistake to fall in with this prevailing fashion. Mistaken decrees were, to be sure, frequently issued, but they were almost invariably recalled as soon as the conditions which made them such were understood; and the system of taxation, taken as a whole, as it stood on the statute books, was not ill adapted to the character of the people and of their economic life.

But, while not a few of the provisions of the laws relating to taxation can scarcely fail to meet with the approval of every impartial student, the methods and the spirit in which those laws were administered were so utterly void of any recognition of some of those principles which Americans have come to regard — in theory, at least — as the correct guides for all official conduct that it is almost as difficult for us to understand

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the Spanish methods of administration as for us to see in them anything but abuse of power. We find that the government officials connected with the revenue system frequently made collections and took fees which no law permitted, that they commuted the payment of taxes or reduced the amount to be paid, in consideration of payments to themselves, and that even those collections made in accordance with the law did not always find their way into the public treasury.[1] Where a public office is regarded as a public trust, these are well-nigh the worst abuses that could be imagined, and the officials guilty of them would be regarded as dishonest and unfaithful. But that view of official duty was not generally recognized in the Philippines. "Public money was, like holy water, something to which everybody helped himself." Moreover, as we study the history of government in these islands, we find a certain extenuation — never, of course, amounting to an excuse — for the common view that a public officer was entitled to certain *caidas*, or "droppings," as the Spaniards called those emoluments of office not permitted by law but sanctioned by custom. Some of these extenuating circumstances arose from the general attitude of the government toward the people of the islands. The natives were regarded as a conquered people and were required to pay tribute in order to enrich the royal exchequer and the officers who accomplished the conquest. Many feudal ideas pervaded the system of government which was originally established, and some of them have continued even into the nineteenth century.[2] The original basis of the revenue system was the responsibility of the native chieftains, the *cabezas de Barangay*, for the taxes levied against the people of their districts. Although Spain provided the most elaborate means for determining how much she would compel the *cabeza* to pay into

[1] All this applies with greater force to the local, than to the central, government, although true of both.

[2] The relation of the resident laborers to the *dueños* on many of the large *haciendas*, even at the present time, preserves some feudal characteristics; no wages are paid, compulsory services are performed on certain of the owners' fields and a certain proportion of the crops of the tenants' fields is surrendered to the owners in return for the privilege of tenancy.

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the treasury, yet, as a sort of tacit recognition of his original rights and natural authority, she never inquired too closely into how much more any *cabeza* might collect for himself. The earlier Spanish laws distinctly recognized certain revenues as belonging to him, by virtue of his position and of the authority which he received from his clan, and simply required that he persuade his people to render additional tribute to the Crown of Spain, whose vassals both he and they had become. Even in the more recent laws no adequate provision is made for the remuneration of his services, a course which can be justified only on the supposition that he could still claim revenues from the people by virtue of his position as a natural leader.

That those next in authority over the *cabeza* should assert a claim to a personal share in these unlegalized but customary emoluments of his office seemed so natural that the government in some instances recognized the practice and went so far as to fix the rates, or percentages, of the taxes collected which should go to the petty governors, to the *alcaldes* and even to the administrator of the treasury (*hacienda*).

Many important sources of revenue were farmed out, and the profits of conducting these farms were also levied upon without scruple by those high in office. Government officials were usually appointed by favor; their nominal salaries were often small, especially in the case of those connected with the revenue system; numerous fees and percentages were allowed; and, as the people were always ignorant of the law, the opportunities which the officials had for extortion were almost unlimited. The taxpayers could for the most part know nothing of their rights under the law. There was no compilation of the decrees, royal orders and the like relating to taxation until 1867; and such laws as were published at all (usually by posting in public buildings) were in Spanish, a tongue but little understood among the people. The laws and regulations relating to taxation were scattered throughout other legislation; and it has proved a task of no small difficulty, even with the help of such excellent compilations as those of San Pedro and the joint works of Tiscar and de la Rosa, and of the records of

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the Treasury in Manila, to ascertain and verify the few facts in regard to the provisions of the revenue laws which are stated in the following brief sketch.

One source of much confusion of ideas was the inextricable intermingling of church funds with state and public funds. Taxes proper were collected in the same manner and at the same time as the gifts of the pious to the church, the latter being distinguished by names which had only a historical significance. It was in 1501 that Pope Alexander VI[1] granted to Ferdinand and Isabella, and to their successors, the right to collect and retain the tithes and other church dues in all their possessions beyond the seas. This grant was made in return for a promise — afterwards most liberally fulfilled, so far as the Philippines were concerned — that the Crown should pay the expenses of the church in Christianizing the conquered people.

Whatever may have been the origin of the abuses in the administration of the tax laws of the Philippines and however serious these abuses undoubtedly were, they cannot obscure the fact that the statutes provided, in the main, a logical, fair and equitable system of taxes, which might perhaps be improved in some minor particulars but which, as a whole, if honestly administered, would have met all the requirements of the situation. For the future the possibility of such abuses of power by revenue officials as have just been under consideration has been, in a great measure, removed by the excellent provisions which the United States Philippine Commission has made for the establishment of an honest and efficient civil service in the islands. If the promise of that act is realized, the Spanish laws relating to taxation, with only such modification as may be necessary to bring them into accord with the changed conditions, may safely be continued in force and will probably be found to comply with the requirements of justice as nearly as could any revenue laws which might be devised.

[1] By Bull of December 16. This was a sequel to the grant of temporal sovereignty over the lands to be discovered and conquered beyond the seas, which was made by the same pope in 1493.

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In the insular budgets the revenues were usually entered under six general headings: (1) The direct taxes (*contribuciones directas*), including the personal taxes and the income tax. (2) The indirect taxes (*contribuciones indirectas*), or the custom duties.[1] (3) The monopolies (*rentas estancadas*), including at various times the stamp taxes and the sale of quicksilver, salt, playing cards, corrosive sublimate, gunpowder, spirituous liquors, tobacco and opium. (4) Lotteries. (5) Public domain (*bienes del estado*). (6) Miscellaneous and indeterminate revenues (*ingresos eventuales*). The same analysis is followed in this article, with the exception that the first is divided into two parts: (1) personal taxes and (2) the income tax, thus making seven, instead of six, parts.

I. PERSONAL TAXES.

1. *Tribute from Natives.* — One of the laws of the Indies, several times repromulgated and dating originally from 1523, nearly fifty years before the conquest of Manila, reads:

> Since it is a just and reasonable thing, that the Indians, who may be pacified, and reduced to obedience and vassalage to Us, should render tribute in recognition of Our sovereignty, and should give such service as Our subjects and vassals owe, and as, moreover, they have established among themselves the custom of paying tribute to their chiefs, We command that they be persuaded to aid Us with tribute, in such moderate amount of the fruits of the earth, as may from time to time be required by law.[2]

The collection of this "tribute" was commenced in the Philippines immediately after their conquest by Legaspi and was continued until 1884, a period of over three hundred years, with but little change in form or in the methods of administration and with no change in principle.

[1] There never were any excises proper in the Philippines. The *alcabalas* of the *Leyes de las Indias* were never enforced here, and the place of such excises was taken by the monopolies.

[2] Recopilación de Leyes de los Reynos de las Indias, bk. vi, title v, law 1. (Hereafter this title is quoted as Recopilación de las Indias.)

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The tribute was a personal tax of the nature of a uniform poll tax and was the only direct tax universally enforced. It was levied on natives, including *mestizos*.[1] Spaniards resident in the islands were exempt. The rate, known as "one tribute," was originally 8 silver *reales* for each family, but this was early raised to 10 *reales fuertes*, or their equivalent, 25 *reales de vellón*,[2] equal to ¼ *pesos*,[3] and subsequently (1851) to 12 *reales fuertes*, or 1½ *pesos*.

Until comparatively recent times the tribute might be paid in money or in kind, or partly in one and partly in the other. When paid in kind, those products which were most easily disposed of were to be preferred. The products were accepted at values determined in advance, according to a table of official values. Those which might be tendered varied much from time to time and from province to province, or from district to district. In most cases the tribute had to be rendered in the staple product of the province. The most common staple was rice or paddy, but later tobacco was required from certain provinces.

The unit of assessment was the family. For this purpose the family ordinarily included a married man over twenty years of age (after 1851, over sixteen) and his wife and minor children.[4] Every unmarried male over twenty and every unmarried female over twenty-five (after 1851, eighteen and twenty) living with the parents paid one-half a "tribute." The duty to contribute ceased when the taxpayer reached sixty years of age. Briefly stated, this was a uniform poll tax, at the rate of half a "tribute,"

[1] A similar tax, known as the *capitación personal de Chinos*, was levied on the Chinese, as explained below.

[2] Recopilación de las Indias, bk. vi, title v, law 65. In 1884, when the tribute was abandoned, the rate was 1 *peso* and 17 *cuartos*, or $1.10–5/8 (Mex.).

[3] To avoid confusion between the dollar (gold) of the United States and the dollar of Mexico, which is current in the islands, the latter is called a *peso* in this article. In the Philippines 1 *duro*, or *peso fuerte*, equalled 8 *reales fuertes*, or 160 *cuartos*, or 100 *centimos* (or *centavos*), or 5 *pesetas*. One *real de vellón*, the ancient unit, equalled two-fifths of a *real fuerte*; or 1 *peso fuerte* equalled 20 *reales de vellón*. For a while the accounts were carried in *escudos de plata*, equal to ½ *peso* each.

[4] Originally males under twenty, females under twenty-five, subsequently (1851) males under eighteen, females under twenty.

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levied upon every person, male or female, over sixteen years of age and under sixty.[1]

Exempt from the tribute, besides the Spaniards were: (1) The *alcaldes, gobernadores* and the *cabezas de Barangay*,[2] who collected these taxes; as were also their wives and first-born sons or, if they had no sons, the persons adopted as such. This exemption lasted three years, or for the term of office. (2) Soldiers and militia men, both active and retired or invalided, together with their wives and those sons who resided under the parental roof; also their widows; and further the members of the provincial reserves.[3] (3) Members of the various branches of the civil guard (exclusive of the municipal guard), including members of the *resguardo volante* (revenue inspectors) and *guardas volantes*, the custom-house guards (*carabineros de hacienda*), and the marine guards (*resguardos marítimos*) with their wives and sons.[4] (4) Inspectors of tobacco and storekeepers, both male and female, under the administration of the tobacco monopoly, with their wives or husbands and sons.[5]

[1] The reason for the fiction that the tribute was at a certain rate per family, when as a matter of fact it was at half that rate per poll, is found in the customary organization of the Filipino family. Until the children marry and set up an independent household, the result of their labor belongs to the parents.

[2] The laws of the Indies (see Recopilación de las Indias, bk. vi, title v, laws 18 and 20; also, Ordenanza de Intendentes of 1786, art. 137) granted exemption to the "Indian chiefs" (*caciques*) and their older sons and to their wives, also to all "Indian" *alcaldes*. In the Philippines the traditional *cacique* was at the head of the group of forty or fifty families which constituted the natural clan. Legaspi governed the natives through these *caciques*, who came to be known as *cabezas de Barangay*. It has been commonly supposed that this exemption was granted as a partial compensation for services rendered. It is, however, clear from the history of this exemption that it was rather a recognition of the native chieftains' original governmental rights and powers.

[3] Royal *Cédula*, Oct. 11, 1786; decree of the *Superintendencia*, Jan. 27, 1819; *Bando*, Sept. 16, 1840, art. 20; decree of the *Superintendencia*, Oct. 5, 1841; *ibid.*, Oct. 13, 1841; *ibid.*, Aug. 7, 1849; *ibid.*, July 26, 1853; *ibid.*, Aug. 1, 1853; decrees of the superior government and of the *Superintendencia*, Jan. 17, and Feb. 10, 1846.

[4] Ordenanza de Intendentes of 1786, art. 91; decree of the *Intendencia general*, June 12, 1835; decree of the *Superintendencia*, Jan. 27, 1838; *Bando*, Sept. 16, 1840, art. 20; decree of the *Superintendencia*, Oct. 3, 1850.

[5] Royal *Cédula*, May 15, 1784; decree of the superior government, April 21, 1819; Circular No. 45, Aug. 22, 1840; *Bando*, Sept. 16, 1840, art. 20.

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(5) Government employees receiving a fixed salary.[1] (6) Paupers and cripples receiving public benevolence.[2] (7) Miscellaneous persons, some exempt in recognition of distinguished services to the government, or to agriculture or industry, and others for "just cause."[3] In case the payment of the tribute should become excessively burdensome, on account of suffering among the people from plague, failure of crops or severe tempest, such payment might be wholly or partially suspended or remitted.[4]

The laws of the Indies required that the "Indians" should pay the tribute in their *pueblos* and that they must not be required to deliver it elsewhere.[5] On the basis of this provision,

[1] Ordenanza de Intendentes 1786, art. 91; decree of the *Superintendencia*, Nov. 18, 1833; *ibid.*, Sept. 9, 1835; Circular of the *Administración general de Tributos*, June 1, 1863.

[2] *Bando*, Sept. 16, 1840, art. 20.

[3] Among these were: "Two or more *cantores* and one *sacristán* for every *pueblo* having one hundred native inhabitants or more." (See Recopilación de las Indias, bk. vi, title iii, law 3); after 1786 the *porteros* of churches and from the same date the *gobernadorcillos*, *tenientes* and officials of justice in the municipalities; after 1840, the number of servitors of each of the cathedrals who might be exempt was limited; from 1785, the students of the University of Manila; from 1840, the students of the colleges of Santo Tomás, San José and San Juan de Letrán; from 1853, the students of the University of Santo Tomás and from the same date the students of the college of San Carlos de Cebú; from 1835, the widows of advocates and the wives of bachelors of arts; from 1740, day laborers employed four months each year at the arsenal at Cavite; and from 1826, day laborers at the royal artillery shops; from 1835, servants of the military hospital; from 1854, servants of the hospital of Cebú; from 1822, the legitimate descendants of those Cebuans who were first subjugated and who contributed to the pacification of that island; from 1854, native women who were widows of Spaniards; from 1836, Spanish *mestizos;* from 1828, the natives, *mestizos* and Chinese who, in groups of not more than twenty families, cultivate plantations of sugar each capable of producing 2000 *picos* (278,688 pounds) per annum, or plantations of indigo, each capable of yielding 100 quintals (10,145 pounds) per annum; also the descendants of certain prominent individuals, notably those of D. Pedro Mojica and of D. Carlos Lacondola recognized by Spain as petty kings; after 1838, wives, widows and sons of the employees of the marine service; after 1857, meritorious employees of the telegraph system. Partial exemption was granted to many persons, among them to the official vaccinators. After 1878, the exemption was extended to natives who paid 4 *pesos* or more per annum for the "*urbana*" tax or the "industrial" tax; and if these taxes exceeded 12 *pesos*, this exemption was to include the sons living under the *patria potestas*.

[4] Recopilación de las Indias, bk. vi, title v, laws 22 and 45.

[5] *Ibid.*, bk. vi, title v, law 44; bk. viii, title vii, law 10; bk. viii, title viii, law 34.

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the native chiefs or heads of the hundreds — that is, the *cabezas de Barangay* — were made the actual collectors of the tribute for the forty or fifty families under their charge; and the local officials — the *alcaldes*, for the province; the mayors (*corregidores*) or the petty governors (*gobernadorcillos*), commonly known as "captains," for the municipality — were held responsible for its collection,[1] it being remitted through their hands to the treasury in Manila. It was at one time prescribed that no *cabecería* should contain less than forty-five, nor more than fifty, contributors, but this provision was often difficult to comply with and fell into abeyance.

Every second year a *padrón de tasas*, or tax list, was made up for each *cabecería* and served as a basis of assessment for two years. This list was practically a census of the tribute-paying natives, as it gave the names, ages and occupations of the heads of families subject to the tribute. It had to be *viséd* by the parish priest, who was supposed to compare it with the parish records and vouch for its correctness.

The *cabezas de Barangay* were charged with all the tribute due from those contributors whose names were entered in the *padrón de tasas;* and if the whole amount were not turned in at the end of three months, they were liable to imprisonment and their goods were subject to confiscation.[2] This drastic measure was often enforced with the utmost severity.

Besides the tribute the native "Indians" paid, in the same manner, three other taxes, amounting in all to five silver *reales;* one *real* for the tithe (*diezmos prediales*), one *real* for the community fund (*caja de comunidad*) and three *reales* for the church, under the name of the *sanctorum*.[3]

The tithe[4] was — theoretically, at least — paid by all residents

[1] For accounts of the local government of the Philippines, see Report of the Philippine Commission of 1899, vol. i, pp. 44 ff.; also Foreman, The Philippine Islands, ch. xiii. These accounts relate mainly to the simpler and more uniform local governments established by the modern reforms; the ancient system was much less uniform, and as the Maura law was not universally introduced, there is still much more complexity than would appear from these descriptions.

[2] Decree of the *Superintendencia*, Sept. 25, 1819.

[3] Collected by the government, but paid over to the church.

[4] Recopilación de las Indias, bk. i, title xvi, laws 1–23, 29; bk. vi, title v, law 65.

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of the islands, even by those who, for reasons of state or religion, or by favor, were exempt from the tribute.[1] Except as commuted, the tithe never became of any importance as a source of revenue to the government. It was originally one-tenth of the fruits of the soil or of any profits or income and pertained to the crown.[2] But those who paid the tribute were declared exempt, so far as their estates were concerned; and for them the tithe was commuted and added to the tribute, at the uniform rate of one *real*.[3]

From 1635 to the middle of the nineteenth century there was a further addition to the tribute, at the rate of one-half *real* for each contributor, ostensibly for the conquest of Joló. This was known as the *donativo de Zamboanga*.[4]

The tribute demanded from the *mestizos* (that is, ordinarily the sons by native women of the *Sangleyes*, or Chinese traders, in the islands) was double in amount that levied on the natives, and they paid two *reales* for the tithe, one *real* for the community fund and three *reales* for the *sanctorum*.

Spanish *mestizos* were exempt from the tribute. This exemption included the sons of Spaniards by native women and of natives by Spanish women.[5]

In 1781 the province of Bulacan voted a special tax, to equip two boats of the variety known as *vintas*[6] for the protection of the coasts of the archipelago from the inroads of the Moros. This tax, called the *vintas*, amounted at first to one-half *real* for

[1] Recopilación de las Indias, bk. i, title xvi, law 14 (Spaniards to pay); *ibid.*, law 16 (estates [*haciendas*] of the king to pay); *ibid.*, law 17 (knights of the military orders to pay); royal *Cédulas*, Sept. 25, 1768, Oct. 14, 1785 (*las religiones* to pay on the fruits of their estates).

[2] Ordenanzas de Intendentes de la Hacienda, 1786, arts. 155, 168.

[3] Royal *Cédula*, July 12, 1778, approving the royal decree (*real auto*) of Dec. 11, 1775; also the royal *Cédula*, May 23, 1801.

[4] The fortified port of Zamboanga, Island of Mindanao, was the outpost from which the wars with the Moslems were waged.

[5] Decree of the *Superintendencia*, Dec. 10, 1836, and the decision of the *Junta Superior Directiva de Apelaciones*, June 30, 1856.

[6] The origin of this term is somewhat uncertain. But it was applied by the Spaniards to a long narrow dugout, usually with one heavy outrigger, somewhat like a catamaran and built for speed. Such boats are common in the southern islands of the archipelago and in the Caroline Islands.

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each person who paid tribute and was afterwards raised to one *ganta*[1] of paddy. The province of Pampanga later joined Bulacan in the payment of the *vintas*. This tribute was suppressed in 1829 and its place was taken by a tax on the coasting trade (*cabotage*); revived again later, it was finally suppressed in 1851.[2]

2. *Recognition of Vassalage.* — The tribute could, in the nature of things, be exacted from those natives only who were fully subjugated and living in organized communities under the Spanish local administration. But that did not prevent the effort to collect revenues from those "infidels" who were not sufficiently subdued to be organized into regular municipalities but who could yet be compelled to recognize Spanish sovereignty.

Long before the conquest of the Philippines, the laws of the Indies had provided that all the "Indians" who might be conquered should be persuaded to pay a moderate tribute in recognition of Spanish sovereignty.[3] This, as we have seen, was the origin of the tribute, and it was also the ground upon which, whenever possible, the wild, "infidel" tribes of the mountains and uncivilized islands were required to pay a tribute, which later became known as the "recognition of vassalage."

This tribute was collected with no regularity whatsoever, and there were, moreover, many legal exceptions to its enforcement, the general purpose of which was to bring the natives into the fold of the church. Thus, for example, it was provided that the "Indians" who were "in rebellion" should be conciliated by all good means, even by the remission of all taxes, to come into obedience.[4] The acceptance of baptism was rewarded by exemption,[5] and in any case conversion to the sacred faith of the Spaniards carried with it ten years of exemption from tribute.

[1] A *ganta* equals one-half *cavan*, or three litres. Prior to 1815 a *ganta* was equal to 3.0641 litres.

[2] In addition to the tribute, there was a heavy local tax rendered in the form of compulsory labor on roads, public works and churches. This could be commuted into a money payment. It was one of the most fertile sources of abuse of power.

[3] Recopilación de las Indias, bk. vi, title v, law 1.

[4] *Ibid.*, bk. iii, title iv, law 8.

[5] *Instrucción*, Aug. 28, 1569, arts. 5, 7; royal *Cédula*, Feb. 1, 1756. The same provisions were incorporated in all later legislation.

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In 1846[1] the rate of the recognition of vassalage for the negritos and "infidels" was fixed at one *real* per capita. In some places[2] the rate was made as high as one *peso* per annum. But in later years the total amount collected from this source was only about 12,000 *pesos* per annum.

3. *The Cédulas Personales.* — In 1884 the time-honored tribute, the original mainstay of the entire system of government and of the revenue in the Philippines, and the original basis of Spain's commerce with her dependencies, was repealed; and with it passed away the tithe, the *caja de comunidad* and the *sanctorum*.[3] The place of the ancient tribute, which had been rendered for so many years with so little murmuring, was taken by a graduated poll tax, modelled upon that of the peninsula, and needless to say the innovation was not popular.

The tax was collected by means of a certificate of identification, known as a *cédula personal*,[4] which every resident[5] of the islands — Spaniards and foreigners, as well as natives, "without distinction of race, nationality or sex, over eighteen years of age" — was required to obtain. The only exceptions were the Chinese, who paid another poll tax, the *remontados é infieles*, not subject to the local administration, and the natives and colonists of the archipelago of Joló and of the islands of Balabac and Palawan.

There were eventually sixteen different classes of *cédulas*[6]:

1. Costing 37.50 *pesos;* for all persons who paid in one or more

[1] Circular of the superior government of June 12.

[2] Sibuyan, for example, by convention approved by the *Superintendencia* on Feb. 15, 1853.

[3] Decree of the *Gobierno general*, May 7, 1884, and royal decree of March 6, 1884. An amount equal to the proceeds of the *sanctorum* was allowed the church from the proceeds of the *cédulas*.

[4] The *cédulas* were first issued by authority of the royal decree of March 6, 1884, under a provisional regulation dated July 15, 1884. This regulation, somewhat amended, was approved by royal *Decreto* of July 22, 1885. It was amended further by the decree of the general government of April 25, 1888, and the royal decrees of Dec. 12, 1890, May 19, 1893, and July 15, 1894. Less important amendments will be found in the royal decrees accompanying the budget each year.

[5] Residence, one year.

[6] Originally there were nine classes taxed, the rates ranging from 1.50 *pesos* to 25 *pesos*, and a tenth, gratis, for priests, soldiers and privileged classes.

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quotas of the direct taxes[1] more than 400 *pesos*, exclusive of surtaxes; or those who enjoyed, from one or more sources, salaries or receipts in excess of 8000 *pesos* per annum, whether paid from state or local funds, or paid from the earnings of corporations, industries or individuals.[2]

2. Costing 30 *pesos*; for those with direct taxes of 300 to 400 *pesos*, or incomes of 6000 *pesos* to 8000 *pesos*.

3. Costing 22.50 *pesos*; for those with direct taxes of 200 *pesos* to 300 *pesos*, or incomes of 4000 to 6000 *pesos*.

4. Costing 12.00 *pesos*; for those with direct taxes of 100 to 200 *pesos*, or incomes of 2000 to 4000 *pesos*.

5. Costing 7.50 *pesos*; for direct taxes of 50 to 100 *pesos*, or incomes of 1000 to 2000 *pesos*.

6. Costing 5.25 *pesos*; for direct taxes of 12 to 50 *pesos*, or incomes of 600 to 1000 *pesos*. Also for the wives and children, of both sexes, over eighteen years of age, of all persons who paid taxes amounting to over 100 *pesos* or enjoyed incomes amounting to 2000 *pesos*; always provided that such wives or children were not, on account of independent property or income, required to obtain *cédulas* of a higher class.

7. Costing 3.50 *pesos*; for direct taxes of 8 to 12 *pesos* inclusive, or incomes of 200 to 600 *pesos*. Or the wives and children of persons who paid direct taxes of 12 *pesos* to 100 *pesos*, or had incomes of 600 to 2000 *pesos*.

8. Costing 3.00 *pesos*; for the wives and children, of both sexes, more than eighteen years of age, of all persons who paid annually on account of direct taxes of 8 to 12 *pesos* inclusive, or enjoyed salaries or incomes of 200 to 600 *pesos* inclusive.

9. Costing 2.25 *pesos*; for direct taxes of less than 8 *pesos*, or incomes of less than 200 *pesos*. In 1890 this class was declared to include all persons not belonging to the higher classes who enjoyed fixed incomes, and all domestic servants.[3]

[1] The *cédula* was not considered a direct tax. The taxes included were the industrial tax and the *urbana* tax. See, below, "the income tax."

[2] The direct taxes were supposed to be at the rate of half a tithe, or five *per centum*; hence taxes at 400 *pesos* per annum would, theoretically, represent an income of 8000 *pesos*. The same proportion holds good in the subsequent classes, excepting 6, 7, 8 and 9, which included persons who enjoyed partial exemption from the direct taxes on account of the comparative smallness of their incomes, and hence in those classes the tax is less than five per cent of the income.

[3] Royal decree of December 12.

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10. Costing 2.00 *pesos;* for all persons not included in the preceding classes or in subsequent classes. In 1890 this class was declared to include wage workers whose earnings were irregular or of a fortuitous character.

11. Costing 2.00 *pesos;* for military officers in active service.

12. Costing 0.50 *pesos;* for wives and sons of military officers.

13. Costing 1.50 *pesos;* for agricultural colonists.

14. Issued gratis; for monks, nuns, sisters of charity, "pastors of the asylums of benevolence," paupers who received public aid, privates in the army and navy and in the civil guard (*tercio civil*) and for convicts during the period of their imprisonment.

15. Issued gratis and known as "privileged" (*clase privilegiada*); for petty governors (*gobernadorcillos*) or municipal "captains," and their wives; for *cabezas de Barangay* and their wives, and their assistants, "known at that time by the name of *primogenitos*"[1] (first-born sons), "in recognition of their services in the administration and collection of the tax."[2]

16. A special *cédula*, gratis; for European agriculturists in Paragua[3] (Island of Palawan).

Any person was permitted to purchase a *cédula* of a higher class than that which he was legally required to have. To enforce the collection of these taxes the proper *cédula* had to be exhibited on the following occasions:

(1) Upon taking up any commission or entering upon any public employment under the royal or insular authority; (2) upon entering upon any provincial or municipal office; (3) upon making any contract, public or private; (4) upon presenting any claim, soliciting business or appearing for any purpose before the petty governors or ministers of justice in the *pueblos;* (5) upon bringing any action before any court of any authority or before any officer; (6) upon matriculation in any institution of learning; (7) upon entering any employment in industry or commerce, any profession, art or trade; (8) upon payment of direct

[1] Under the tribute, as explained above, the first-born sons of the *cabezas de Barangay*, or "persons adopted as such," were exempt. It seems that the *cabezas* "adopted" their assistants.

[2] This was not the original reason for this exemption. See footnote above, concerning the exemption of *cabezas de Barangay* in connection with the tribute.

[3] See royal order of Aug. 20, 1888. This was a convict settlement.

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taxes; (9) upon presenting any claim or exercising any civil right not previously mentioned, and upon acquiring any rights or contracting any obligations; (10) upon establishing identity; (11) upon realizing any kind of credits, making or withdrawing deposits, collecting on letters of credit, making bills of exchange, depositing money in savings banks, confirming pledges with the *montes de piedad*, or pawn shops, and upon bidding at public auction; (12) upon becoming a director, administrator, member, voter, shareholder or employee of any class of association or industrial undertaking; (13) upon travelling[1] beyond the boundaries of the *pueblo* of residence; and (14) upon entering into domestic service. The officers of the government were authorized to call for and examine the *cédulas* upon any and all occasions, and any person found without a *cédula* (*indocumentado*) was subject to very severe penalties.

The *cédulas* were issued on the basis of a *padrón* prepared by the *cabezas de Barangay* and drawn up in practically the same manner as the *padrón* for the tribute, the required information being collected on schedules (*hojas*, literally, "leaflets") filled out by the heads of households, giving the name and income of every person over eighteen years of age in the household. The *padrón* was made in triplicate: one copy for the *cabeza*, one for the *gobernadorcillo* and one for the treasury department (*administración de hacienda pública*). The heads of all institutions — monasteries, convents, prisons, *etc.* — who had persons entitled to *cédulas* gratis under their charge prepared a special *padrón;* but any person not entered in the *padrón* might purchase a *cédula*, if he so desired. The captains, or the *patrones*, of all boats were required to submit a similar *padrón* for the persons living on the boats. The *cabeza de Barangay* was held responsible for the collection of the taxes on all persons entered in the *padrón* for his *cabecería*, and the captains, or the *patrones*, of all boats were held similarly responsible.

The *cédulas* were prepared with stubs and bore serial numbers, so that every one issued to the tax collectors could be traced and

[1] The *cédula* thus served as a passport to all persons travelling within the islands.

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accounted for. The *cédula* stated the year for which it was valid, the number of the class, the rate at which it was issued, the province and *pueblo* in which it was issued, the name of the person to whom it was sold, giving the name of the province of which he was a native, his age, conjugal condition, profession and address, with proper references to the *padrón* in which he was enrolled.

To cover the costs of collection there was an allowance of six per cent (formerly five per cent), of which three went to the *cabeza de Barangay*, one to the governor of the province, one to the administrator of the *hacienda pública* and one to the *gobernadorcillo*.

To complete the transformation of all the ancient taxes which had grown out of the tribute exacted from the conquered peoples, the royal decree of July 15, 1894, authorized the governor-general to provide the *cédula* of the tenth class (2.00 *pesos*) for such *pueblos* and plantations[1] of "infidels" as he thought proper, and in every case to exact as the rate for the recognition of vassalage an annual payment of at least 0.50 *pesos*.

After the American occupation the *cédulas personales* were abolished; but, as the procedure of Spanish law was retained, it was soon found that the possession of such a document for the purpose of identification was necessary. Consequently, the military government decided to issue such certificates at the nominal and uniform rate of one *peseta* (0.20 *pesos*) each, an amount which it was assumed would be sufficient to cover the cost of sale.

Just previous to the American occupation the *cédulas* had yielded a revenue of about 7,000,000 *pesos* per annum, which was the largest item on the list of revenues at that time.

4. *Chinese Poll Tax.* — The *Sangleyes*, or Chinese traders, resident in the islands, were the constant subjects of restrictive legislation and of discriminating taxation. As early as 1614 the governor was enjoined to collect license taxes from them for

[1] The term *rancherías*, here translated as "plantation," is used in the mountainous provinces of Luzon to designate a village or settlement not organized as a *pueblo*. They were usually governed by a native *gobernadorcillo*, under the guidance of a missionary. In the Visayas similar settlements are called *sementeras*, — literally, "plantations."

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acquiring residence (*radicación*), and the royal officials were empowered to fix the rate of these licenses.[1] A *bando* issued by the governor in 1660 prescribes the manner in which these licenses shall be issued and the listing of the Chinese in a *padrón*. Down to 1755, when the non-Christian Chinese were expelled from the Philippines, their presence was regarded as essential to trade and to the industrial prosperity of the islands. It is not the least significant of the many interesting historical facts built into the city wall of Manila that the largest and finest gateway should be that "del Parian,"[2] or leading from the district within the walled city where the Chinese were once allowed to settle.

In 1790 the rate for the Chinese poll tax was fixed at six *duros* per capita, equivalent to six *pesos* of eight *reales* each.[3] But in 1828 the superior government, "recognizing," in the words of a memorial submitted at the time, "the great advantages which the Chinese, or *Sangleyes*, enjoyed in the commerce which they had in the Philippines, to the prejudice of the Spaniards and *mestizos*, and considering that the tribute of six *duros* per annum which they were paying was very little compared with their gains and with that which existed in Java, Singapore and other colonies in Asia, where they were permitted to trade," decided that there should be a new *padrón*, or tax list, made of the Chinese resident in the islands; that they should be divided into *cabecerías*, as were the natives; that the Chinese *cabezas de Barangay* should give bond for the tribute of their respective *cabecerías*, and gather the same and turn it in to the provincial *alcaldes*, who were to receive three per cent of the collections; that the Chinese were to be divided into three classes: (1) the greater merchants, among whom were to be classed such as shipped goods or effects to foreign lands or sent them to the provinces of the Indian archipelago, or imported goods

[1] Recopilación de las Indias, bk. viii, title xxix, law 11; also bk. vi, title ix, law 13.

[2] Mexican for market place.

[3] Royal *Cédula*, May 14. Foreman (p. 120) states that "taxes were first levied on the Mongul traders in 1828." This is an error, as the special capitation tax began in 1790, and license taxes were levied almost without interruption after 1614.

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for sale on their own account or on commission, whether from abroad or from other provinces; (2) lesser merchants or shopkeepers, who were supplied from the warehouses of the capital or of the provinces; and (3) artisans of every class; that the first class should pay ten *pesos fuertes* per month, the second four and the third two; that any Chinaman who failed for three months to pay his tax should be delivered over to the owner of some *hacienda* to work as a day laborer at a wage not less than two silver *reales* and a ration of rice per day, and the master of the *hacienda* should pay the wages to the *alcalde mayor* of the province until the tax was discharged.

This scheme for the taxation of the Chinese had been prepared in Spain without sufficient knowledge of the local conditions, and its enforcement would have met with many grave difficulties, some of which were, however, obviated before it went into effect. In the first place, there were among the Chinese many who could barely earn the meagre living to which they were accustomed and who could not pay even the two *pesos* per month which the law required. Consequently, a fourth class at one *peso* per month had to be established. The third class was then made to consist of overseers, masters or superintendents of factories or shops, while the fourth included operators and day laborers. In the second place, it would have tended to impede the entrance of the Chinese into commercial life, for which they were well fitted and which had been their favorite occupation, and would have driven them to compete more and more with the natives in fields which the Chinese had not entered heretofore. In the third place, the daily wage of two *reales* for delinquent Chinese which the government had placed as the minimum was too high, being more than the natives employed as agricultural laborers could earn. To remedy this it was provided that the delinquent Chinese were to be employed on the public works and fortifications and that, if they were delinquent for a second quarter, they were to be expelled from the islands. Another difficulty in the program for this tax was that no Chinamen would consent to act as *cabezas de Barangay*, on account of the responsibility for the taxes on the *padrón* for the *cabecería*.

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The duty of making the *padrón* was, therefore, laid upon the *corregidores*, or mayors, of the towns or districts where the Chinese resided, and collections were made by the *alcaldes mayores* of the province.

The first *padrón*, satisfactorily completed in 1831, showed 5708 Chinese, of whom 7 were in the first class, 166 in the second, 4509 in the third and 830 in the fourth, while 196 were over sixty years of age and exempt. But the attempt to collect the tax on this basis was beset with new difficulties which had not been anticipated. Eight hundred Chinese preferred to return home rather than pay the tax. One thousand and eighty-three fled to the mountains, and four hundred and fifty-three, who did not possess the means to return home, to flee or to pay the tax, were compelled to work out their taxes on the public works. Hence in 1834 the government saw itself compelled to authorize the *intendencia* to reduce the rates to such a level that the taxes could be paid by the Chinese. The result was that the increase was levied in the form of a special tax on Chinese industry and commerce, which is discussed in another connection, and the poll tax proper was restored to its old level.

In 1850,[1] in connection with one of the many almost vain efforts to encourage the entrance of the Chinese into agricultural pursuits, two new classes were created for the poll tax, consisting of (1) Chinese engaged on estates raising sugar, indigo and hemp in Luzon and the Visayas, and (2) Chinese engaged in agriculture in certain sparsely settled districts. The rates for these two classes were twelve and five *reales*, respectively. Those Chinese who chose to raise tobacco for the monopoly were to be exempt for five years. The benefits of this act were afterwards extended[2] to Chinese engaged in fisheries, wood-cutting, mining, shipbuilding and in any employment other than that of commerce. In 1862 these rates became three and two *pesos*, respectively.[3] Nevertheless, as most of the Chinese

[1] *Decreto*, August 5 and *Bando* of the same date.
[2] *Decreto*, Dec. 22, 1850.
[3] Royal order, March 27, 1861.

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clung stubbornly to their old commercial pursuits, there was, in spite of all this legislation, little practical change from the general tax of six *pesos* per annum imposed in 1790.

An extensive revision of the law relating to the Chinese poll tax was made in 1890, by virtue of the royal decree of February 13. Every Chinese, irrespective of age or sex, was required to be provided with a *cédula de capitación personal*, or document of identification. This document, or schedule, was precisely similar in character and in effect to that which the natives were required to have and which was known as the *cédula personal*. It was valid for one year only, and its cost thus constituted an annual tax.

The *cédulas* were of eight different classes, as follows:

1. Costing 30 *pesos*;[1] for all male Chinese over fourteen years of age whose annual contribution in the form of direct taxes[2] exclusive of surtaxes amounted to 400 *pesos* or more.

2. Costing 25 *pesos*; for those whose direct taxes were over 300 *pesos* but not over 400 *pesos*.[3]

3. Costing 20 *pesos*; for those whose direct taxes were over 200 *pesos* but not over 300 *pesos*.

4. Costing 15 *pesos*; for those whose direct taxes were over 100 *pesos* but not over 200 *pesos*.

5. Costing 10 *pesos*; for those whose direct taxes were over 50 *pesos* but not over 100 *pesos*.

6. Costing 6 *pesos*; for all male Chinese over fourteen years of age not included in the five preceding classes.[4]

7. Costing 3 *pesos*; for Chinese women over fourteen years of age.

8. Issued gratis; for all under fourteen years of age and for those physically incapacitated for work.

Another class of *cédula*, called *privilegiada*, was issued gratis to the Chinese *gobernadorcillo* and to his wife; also to his lieutenants and to the tax collectors during their term of office.

[1] Without the surtaxes; see below.

[2] The *cédula* was not regarded as a direct tax.

[3] The ambiguity as to which *cédula* a Chinese paying exactly 400 *pesos* should purchase existed in the Spanish law.

[4] It should be observed that this is the old rate of the Chinese poll tax of 1790; see above.

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As was so universally the practice with all Spanish taxes, these rates were increased by several surtaxes. First, there was five per cent of the price as a "consumption tax." Second, there were a number of surtaxes, ostensibly for the support of the provincial and municipal governments. Latterly, and down to the time of American occupation, these amounted to fifty per cent and were designated as for the "benefit of the treasury." Third, there was a surtax of eight per cent, to be distributed as follows: one per cent for the general treasury, two, for the cost of collection and five, to form a fund to meet the expenses of sending home insolvent Chinese. The total cost of the *cédulas* was, therefore: class 1, 48.90 *pesos;* class 2, 40.75 *pesos;* class 3, 32.60 *pesos;* class 4, 24.45 *pesos;* class 5, 16.30 *pesos;* class 6, 9.78 *pesos;* class 7, 4.89 *pesos.* It was expressly provided that any Chinaman might purchase a *cédula* belonging to a higher class than that in which he was listed, without being required to give any explanation.

To enforce the purchase of these documents, the Chinese were required to produce them on every occasion when they came in any way in contact with the government or when it might be necessary to establish their identity, and certain officials were authorized to call for and inspect the *cédulas* at any time. The *cédula* had to be presented in court whenever a Chinaman had business there; to notaries, whenever their services were required; to the captain of the port and to every ship captain, when the Chinaman desired to travel, *etc., etc.* Any Chinaman found without a *cédula* (*indocumentado*) was subject to severe penalties, and in case of actual inability to purchase one might be deported. The officers of collection were held accountable for the price of the *cédulas* for every person entered in the *padrón* and could only be relieved from the responsibility for payment by proving sickness on the part of a contributor, sufficient to incapacitate him for work for four months, his death or departure from the islands.

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II. The Income Tax.

1. *In General.* — In 1878[1] the system of taxes in force in the Philippines was rounded out by the addition of a tax on all incomes except those from agriculture, it being the established policy of the Spanish government to nurture that occupation. This was the only tax in the Islands known administratively as a direct tax. It was levied under the guise of two taxes: one, on the annual rental value of urban real estate, called the *contribución directa sobre la propriedad urbana*, but commonly known as the "*urbana*" tax; and another on salaries, dividends and profits, called the *contribución directa sobre la industria, el comercio, las profesiones y las artes*, a name commonly abbreviated into the "industrial tax."[2] The rate of the income tax was half a tithe, or five per cent of the net income. Very low incomes were entirely exempt, and a partial exemption was granted to those just above the lowest.

2. *The "Urbana" Tax.*—This was originally levied at the rate of five per cent upon the net rental value of all houses and buildings of brick, of masonry, of iron and of wood, whether inhabited by their owners or not and whatever might be the uses to which they were put; and also upon those of bamboo and *nipa*,[3] when rented or used for commercial or industrial purposes.

Absolute exemption was granted for buildings owned and occupied by religious communities, those which served as residences for the parish priests, those used as hospitals, houses of benevolence or schools, when not private property or when granted by the owner for such use free of rent, houses inhabited by foreign consuls, when owned by the governments which they represented, and when those governments granted a similar franchise to the representatives of Spain, and public buildings owned and used by the state.

[1] Royal decree, June 14.

[2] This common name is peculiarly unfortunate and has given rise to a complete misunderstanding of the true character of the tax.

[3] The common native house has a bamboo frame, with *nipa* thatch for roof and walls.

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Temporary exemption was granted to houses of bamboo and *nipa*, when occupied by their owners, and to edifices of whatever materials ruined by earthquakes, typhoons, flood or fire and those which were in process of construction or of complete reconstruction and for one year thereafter.

The net rental value upon which the tax was to be assessed was determined by deducting a fixed allowance, for the expenses of repairs and maintenance, from the gross rentals received or which might have been received had the edifice been rented. This allowance was forty per cent in the case of structures of brick, masonry or iron and fifty per cent in the case of structures of wood or of bamboo and *nipa*.

The tax was assessed upon all proprietors, without distinction of class or nationality, with the sole exception that natives who paid tribute were to be exempt if their *urbana* tax would not exceed four *pesos* per annum; if it reached or exceeded that sum, such natives were to be exempt from the tribute; if it exceeded twelve *pesos*, this exemption from the tribute was to extend to their legitimate children living under the *patria potestas;* and when it reached twenty-five *pesos*, they and their sons were also to be exempted from personal services.[1]

In the course of the next ten years a number of modifications were introduced, and in 1889 [2] the law finally assumed that form which it had at the time of the American occupation and in which it is still enforced by the United States military government. The principal changes were: First, the abandonment of the distinction between houses of bamboo and *nipa* and those of brick, masonry or iron, together with the exemption of the former when occupied by the owners. In place of this, all buildings of whatever materials on which the annual tax would be less than one *peso* were exempted. Second, the allowance for repairs and maintenance was reduced to twenty-five per cent and made uniform for all structures. The rate was increased by a surtax of five per cent of the tax, for the expenses of assessment and collection.

[1] A local tax.

[2] Royal decree, published in Manila *Gazette*, Dec. 29.

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The details of administration are very similar to those of the general property tax, as it exists in the commonwealths of the United States. The tax is payable quarterly, and the penalty for delinquency is ten per cent. In case of enforced collection, which is by distraint of personal or real property, the cost of collection is added. In order to ascertain the rental value, the revenue officers are authorized to examine receipts, leases and other documents. The selling value of the property may be taken into consideration to determine the rent when the building is occupied by the owner, and the rent is then estimated according to the average percentage on the value earned by other property leased and similarly located. If the rent cannot be ascertained in this way, it is estimated at ten per cent of the selling value.

The tax list, or *padrón*, is compiled by local assessment boards, known as "local census boards," service upon which is compulsory and unpaid. Every proprietor of real estate is compelled to make a declaration, known as a *cédula*, or schedule, which gives all the particulars regarding the property, but the assessment is made by the board. The tax is collected by the internal revenue office in each province, and special collectors may be appointed for this branch of the service, all being under the central tax office of the general treasury department.

That part of the income tax represented by the "*urbana*" tax covered all income derived from real estate other than agricultural real estate. Building lots unoccupied were exempt.

3. *The Tax on Industry and Commerce.* — The second, and by far the most important, part of the income tax is the so-called "industrial tax." The prototypes of this tax are to be found in the Spanish excise[1] (*Alcabala*), never collected in these islands, in the ancient tax on *pulperías*, or grocery stores, and in the industrial and commercial license tax on the Chinese.[2]

[1] The similarity is one of form merely.

[2] The license tax for the manufacture and sale of spirituous liquors, which was imposed after 1864, when the monopoly of spirituous liquors was abandoned (see decree of the *Superintendencia*, May 14, 1864), might have been included here. But the tax on the Chinese shops was a true tax apportioned to profits, which, for convenience of collection merely, took a form analogous to that of a license tax,

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The tax on the *pulperías*, which had no significance in the Philippines except as an isolated instance of a tax similar to the one now under discussion, was levied on all grocery stores in excess of the number declared by an ordinance passed by the local authorities to be absolutely necessary for the support of the community.[1]

The industrial and commercial license tax on Chinese was, however, of no little importance. This tax originated, as has already been stated, in an attempt to increase the burden upon these industrious people in 1828. As it proved to be impolitic to raise the rate of the capitation tax, those Chinese who could afford to pay higher rates were reached by an additional tax levied in the form of a license tax on their shops and industries.

For the assessment of this tax all shops kept by the Chinese were divided into four classes, according to the size of the shop and the character of the goods made and sold.[2] The first class included those shops which, in addition to the main room, had interior rooms, where, as in the main room, were displayed "manufactures of cotton, linen or silk, fancy goods, books, paper and other things used by the rich and the well to do." In the second class were all those shops of one room only which sold any or all the following goods: European or Chinese wares, silks, hardware, porcelain, mirrors and the like, or goods and effects of the country. This class also included Chinese pharmacies, wax chandlers, bake shops, blacksmith shops and lumber shops. The third class included shops selling comestibles, raw or cooked, silversmith shops, shoemaker shops, carpenter shops, dye shops and soap-maker shops. The fourth class included all those not enumerated in the preceding classes, among which the most important were: umbrella makers, shops for sandals and slippers (*chinelas*), junk shops, barber shops, stands for old clothes and hats, shops for the sale of leather, flour, furniture, Chinese

while the tax on dealers in liquors was a true license tax, and its resemblance to the older Chinese "industrial and commercial tax" was merely superficial.

[1] Recopilación de las Indias, bk. iv, title viii, law 12.

[2] We follow here the general outline of the decree of the superior government of Sept. 13, 1852, as given in circular No. 82 of the *Administración general de Tributos*.

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delicacies, charcoal and for cleaning rice. Those of the first class paid 100 *pesos* per annum, of the second 60 *pesos*, of the third 30 *pesos*, and of the fourth 12 *pesos*.

It was the object of the classification to apportion the tax to the ability of the taxpayer, and the characteristics used for this purpose were such as indicated in a general way the profits of the various enterprises in which the Chinese engaged. Precisely the same principle was followed in the income tax of 1878, so far as that tax affected the profits of industry and commerce; and out of this simple classification of Chinese shops grew the elaborate tariff for all industries, by whomsoever conducted, which is now in force.

By the decree of June 14, 1878,[1] the industrial tax as levied on the Chinese was extended to all industries of the same sort, by whomsoever conducted, and two new classes, one at 300 *pesos* per annum and one at 200 *pesos*, were created. The first of these new classes was composed of stock companies and corporations engaged in making loans and discounts, large commercial houses and factories, insurance companies other than mutual, banks which issued bills payable to bearer on demand, also commercial capitalists engaged in banking or in the export and import trade, having warehouses and selling at wholesale, when doing business in Manila. The second class included commercial capitalists, as above, doing business elsewhere than in Manila; wholesale stores, not importing, whether dealing in foreign wares or those of the country; money lenders; dealers in the products of the country and their collecting agents;[2] and finally all those manufactories and mercantile houses which "by reason of their business ought to pay a higher rate than those assigned to the third class."

The law of 1878 was by its own terms tentative and to a certain extent incomplete. But as the experiment proved a success and the tax yielded a handsome revenue, the law was gradually

[1] The same decree which established the *urbana* tax.

[2] *Acopiadores*, agents whose business it is to travel through the interior inducing the natives to plant and harvest and then buying and transporting to the coast hemp, copra, sugar, *etc.*

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expanded and amended until it reached its full growth in the elaborate *reglamento* approved by royal decree, June 19, 1890, which enumerated over four hundred different classes of industries and occupations. This regulation preserves all the old features of the tax and extends it to cover wages, salaries and professional earnings.

The most striking characteristic of this part of the income tax is that it is almost entirely objective, a declaration or estimate of the amount of the income in money being required in but very few cases, and the amount of the contribution required of any one person being determined, in most cases, by the external or superficial features of the business in which he is engaged — such, for example, as the kind of goods handled, the size and arrangement of his shop, and the importance from a commercial point of view of the town in which it is located.

The cases in which a statement of, or reference to, the amount of the income is prescribed are as follows: (1) officials of banks, stock companies and the like, administrators of real estate, or of the vested incomes of individuals or corporations, agents or attorneys of persons receiving pensions or interest from the state; (2) employees of banks, corporations, insurance companies and other organizations, firms or individuals when the remuneration exceeds 600 *pesos* per annum; (3) dividends declared by banks, by corporations or branches and agencies thereof (excepting mutual insurance companies), the tax being in this case stopped at the source; (4) government contractors, in which case the rate is one-half of one per cent of the sum named in the contract.[1]

In other cases there are generally four specific rates for each industry, shop or occupation: the first for Manila and its adjacent suburbs; the second for most of the other important ports of entry[2] and a few important towns of over thirty thousand inhabitants; the third for certain provincial towns of over fifteen thousand but not over thirty thousand inhabitants; and the

[1] It was evidently assumed that the profit on such contracts would be at least ten per cent, so that this is no departure from the regular rate on incomes.

[2] Zamboanga is excepted.

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fourth for all other towns. These rates stand in the relations of 100, 68, 51 and 36, or nearly so.[1] In the case of certain industries which manufacture goods from raw materials produced in the islands and of occupations, like those of peddlers, in which location is of little importance, there is only one rate for each, irrespective of location.

To illustrate the manner in which the elaborate tariff, with four times four hundred different classes of contributors, is constructed, we may cite a few typical examples. Thus, number nine in group one reads: "Brokers dealing in the wares of the country but not importing or exporting goods and not having a regular office or place of business"; these are rated at (1) 30, (2) 20, (3) 15 and (4) 11 *pesos*. Under number twenty-one in the same group are: "Bankers, whose regular business is to buy, sell or discount on their own account, or as agents, drafts, bills of exchange and other securities"; rated at (1) 1000, (2) 680, (3) 510 and (4) 357 *pesos*. Under group two, which deals with bazaars and stores, number three contains: "Stores and bazaars engaged exclusively in the sale of Chinese, Japanese and British Indian goods," which import these wares; rated at (1) 400, (2) 272, (3) 204 and (4) 143 *pesos;* and the same kind of establishments not importing, at (1) 200, (2) 136, (3) 102, (4) 71 *pesos*. Other distinctive characteristics, besides the kind of wares and whether imported or not, used in the same group are: whether the goods are manufactured on the premises or elsewhere, whether the business is done at retail or at wholesale, whether the establishment maintains a "godown" or warehouse and whether machinery is used or not. Under group three, which treats of dealers and vendors, we find number eight includes "dealers in lumber and all kinds of builders, cabinet-makers or coopers, who export their wares," rated at 150, 102, 77 and 54 *pesos;* and under number nine, if they forego the right to export, they are rated at 75, 51, 38 and 27 *pesos*. Under group four, which treats of various industries, number twenty-six[2] includes

[1] Thus the four rates for *acopiadores* are 250, 170, 128 and 89 *pesos*.

[2] Added by the decree of the *Intendencia general*, Feb. 5, 1892.

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small shops situated in a room opening directly on the street or in arcades, with a back room or workshop, where are sold, at wholesale and at retail, hardware, locks and keys, nails, cutlery, tools and instruments of steel, iron and other metals, cooking utensils, faucets and the like, and with the right to sell, at retail only, other articles from Europe, China and Japan, such as small hardware, jewelry, porcelain, fine and common earthenware, files, mirrors, optical instruments, toys, articles of iron, brass or bronze, zinc, perfumery, musical instruments, furs, hats, brushes, combs, umbrellas, piece lace, portmanteaus, foot-wear, paints, sewing-machines, clocks, all kinds of paper, stationery, prints, engravings, chromos, frames, mouldings, trinkets of metal, blank books, saddlery and similar articles,

with but one door and without a "godown" or warehouse; rated at 100, 68, 51 and 36 *pesos*. If such a shop has a "godown," the rates are 120, 80, 60 and 42 *pesos;* and if two doors with a "godown," 150, 102, 77 and 54 *pesos*.

Among the professions, surveyors, for example, pay 12, 8, 6 or 4 *pesos;* dentists, 30, 20, 15 or 11 *pesos;* architects, 100, 68, 51 and 36 *pesos*, according to location; lawyers, 150, 100 or 50 *pesos*, according to the category of the courts in which they practice. Among the arts and trades we find tailors importing goods rated at 100 *pesos* for Manila and at the usual reduction in other places; not importing, they pay 50 *pesos*, *etc.;* and if they work in doorways or anywhere in sight of the public, but have no shops, 12 *pesos*.

The various classes in the tariff correspond very closely to the different varieties of shops which have grown up in the islands. Thus, number twenty-six of group four, used as an illustration above, is an accurate description of several hundred Chinese shops in Manila; and the number of doors and the possession or non-possession of a storehouse, or "godown," are simple and common marks distinguishing differences in size and profits. An examination of the business conducted under each of the various classes or numbers of the tariff shows that the tax is approximately five per cent of the usual or average profits. A dealer or manufacturer commencing business in a small way will be placed in a class for which the tariff rate is low; as his business grows, he passes into a higher class, and

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his taxes increase *pari passu* with the increase of his profits. There is a possibility, however, that the same tax may be paid by a large establishment as by a small one, when both are organized along the same lines. But experience has proved that this is very rarely the case, as a larger establishment would naturally acquire some of the many different characteristics which would place it in another class.

There are sixty-two different classes of occupations or industries which are exempt. These exemptions are drawn in such a way as to relieve from taxation: (1) all persons other than Chinese whose incomes are in all probability below 600 *pesos* per annum — such, for example, as seamstresses, domestic servants, weavers of mats and of walls of *nipa* or *nipa* thatch, boatmen, itinerant barbers and day laborers; (2) all public officials, including school teachers; (3) public and benevolent institutions; (4) industries otherwise taxed or burdened, as mining and forestry; (5) all branches of agricultural industry (in accordance with the settled policy of the government); (6) fishing; (7) writers, authors and editors of scientific or literary works and teachers in the higher branches of education; (8) for two years only, "any manufacturing industry which has not been previously conducted in the islands."

Like all Spanish taxes, the rates of this tax were increased by surtaxes, now abolished, some of which accrued to the benefit of the provincial and municipal governments. Assessment is made on the basis of a tax list, or *padrón*, drawn up by the internal revenue office in each province, and declarations are required from all persons subject to the tax. The tax is payable quarterly, and delinquencies are punished by a penalty of twenty-five per cent, plus twenty-five cents (Mexican) per day for expenses of collection. Collection may be enforced by closure of the shop or establishment and, if that fails, by seizure and sale of the delinquent's property.

4. *Operation of the Income Tax as a Whole.* — The question of incidence is obviously most important; for, if the tax is shifted from the rent, wages, interests or profits upon which it is levied, it must result in raising the price

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of commodities and must act as an annoying restraint on trade. Such, however, is not found to be the case. The consumer does not pay the tax, and there is no perceptible restraint on trade. The tax is universal and affects every kind of economic activity except agriculture, which, as has already been stated, it was the expressed policy of the Spanish government to foster and encourage. It is distinctly a tax on profits. The only place where labor and capital can go to escape this taxation is, therefore, into agriculture, all branches of industrial and commercial activity being alike subject to the tax and at practically the same rates; consequently the prices of manufactured or commercial wares can be affected by the tax only to the extent that capital and labor are driven into agriculture and the cost of agricultural products correspondingly reduced. The reasons for thus favoring agriculture, which had all the more weight by virtue of the fact that the "friars," who were large landholders, had a decisive voice in the government, are to be found: first, in the great natural advantages which the islands possess for the production of such crops as hemp, tobacco, copra, cocoanut oil, sugar, indigo and chocolate — crops which promise such magnificent returns for the general wealth and welfare of the country when they are developed; and, second, in the inertness of the natives and their reluctance to labor after their immediate necessities are supplied, which places so severe a handicap on all agricultural endeavor. The policy of Spain in favoring agriculture in these islands, even at the expense of manufacturing industries, was not without justification.

In considering the form of the income tax, the most striking characteristic is the skillful way in which it avoids almost entirely the difficulties of a personal declaration, or estimate, of the annual income and the dangers of false statements and misrepresentation. In this it bears a marked resemblance to the British property and income tax. Except in the case of such gross negligence or corruption on the part of the public officials as was common under Spanish rule, it is impossible for the taxpayer to evade a just assessment; and it is the only form of an income tax which can be enforced with any success

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whatever among a people trained, as the Filipinos have been for centuries, in every form of duplicity where the interests of government are concerned. It is, moreover, a tax which, if honestly administered, can be made as just and equitable under existing circumstances as any other tax which could possibly be developed. Practically all of the objections that have been urged against the Philippine income tax, in the various statements and petitions presented to the representatives of the United States government, are based upon the corrupt methods of administration under Spanish rule; and not one which is worthy of a moment's consideration has been urged against the principle of this tax.

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(To be continued.)

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REVIEWS.

Elements of American Jurisprudence. By WILLIAM C. ROBINSON, LL.D., Whiteford Professor of Common Law in the Catholic University of America. Boston, Little, Brown & Co., 1900. — lviii, 401 pp.

It is not easy to indicate the proper shelf for this book in a law library, unless we assign a special place to introductory works in general; nor is it easy to relegate the author to any school of jurisprudence, unless we construct for his benefit an eclectic school. The difficulty of placing the author is, in fact, occasioned not by the originality of his theories, but by his practice of presenting alternately, and often in close juxtaposition, the phrases — I might almost say the war cries — of the natural-law school, the historical school and the analytical school. Human law is "the projection of the eternal law into the daily actions and forbearances of men" (§ 7). Bad laws not only tend to become obsolete or to be repealed: they are "invalid" from the outset (§ 8 and § 221, subsection 4). Rights are "inherent": they are based upon and exist by virtue of "the eternal law" or "natural law" (§§ 120–122); and a legislature, although restrained by no constitutional prohibition, "cannot enact a law which palpably infringes any of those rights to assert and defend which the state has been established" (§ 276, subsection 4). At the same time, law is a historical product, and a product of custom far more than of legislation. As a factor in the making of law, custom is of the same force as legislation; for written laws may become obsolete by disuse (§ 8) and may be superseded by contrary usage (§ 228). It is not merely in the earlier stages of legal development that custom makes law: new customs are arising and new law is thus being made at the present time (§ 223). Even to-day custom constitutes the more important part of our law: the written law is "the servitor and subordinate of the unwritten law" (§ 238). That written law can ever wholly replace unwritten law is "an idle dream." If the attempt be made by codification to reduce the entire law of a state to the written form, the state will either sink into decay under the dead weight of its changeless rules, or it will outgrow its codes

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and make them merely the nucleus about which will accumulate a constantly increasing mass of statutes and customary laws (§ 262). Little of Bentham here! And yet, while the voice of the author is the voice of the historical Jacob, he repeatedly assumes in patches the skin of the analytical Esau. "National law emanates from the supreme authority in the state" (§ 166). It is the sum of "the rules of conduct dictated by the reason and imposed by the will of the sovereign" (§ 365). Only by receiving "the sanction of the state" are customs "transmuted into law" (§ 216). International law is not, to the author, a mere system of morals; he recognizes it as customary law (§§ 171, 226, 402); but he throws a sop to the analytical jurists by premising that its rules, "having been adopted and sanctioned by each individual state, and expressly [?] made a part of its own laws, have become binding upon itself and its citizens like any other portion of its laws" (§ 11).

I do not say that these expressions are wholly irreconcilable. The historical development of law may, of course, be regarded as a progressive revelation of "the eternal law" or as a progressive approach to "natural law." And when the author speaks of "the state" or "the sovereign," he uses these words in a very elastic sense. Like the analytical jurists, he impliedly extends the term "state" to include all the subdivisions of the national state in which legislative power is exercised, and the term "sovereign" to include all legislative organs, from a constitutional convention to a town meeting. He goes farther, however, than the analytical jurists of the stricter sect, in recognizing that the "sovereign" makes law through the action of the judicial and executive branches of government, as well as through that of the legislative branch. The law-making power of the courts is expressly recognized (§§ 166, 219 and *passim*); the law-making power of the executive branch, within its field of action, is recognized by necessary implication in some of his remarks regarding international, constitutional and administrative law. The customs which constitute international law (§§ 11, 226) have been developed, for the most part, through the acts and forbearances of the executive branches of the different national governments, and in many cases no "adoption" of these customs as the national law of the individual states can be discovered except in the persistent conduct of their executives. The customs which are "unwritten constitutional law" (§§ 245, 248) have likewise been developed, in part at least, by acts and forbearances of the executive. This is especially true of the gradual adjustment, both in England and in our country,

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of the relations of the central and local powers, and of the relations of the executive, legislative and judicial branches *inter se*. In one passage, at least, the author expressly recognizes that the acts of the executive branch have made law. A part of "the unwritten law of the United States," he says, has been developed "in the government of the Territories and the District of Columbia," and "in the administration of the patent, copyright and revenue systems" (§ 226). And in § 214 he gives us a formula broad enough to cover these and all other developments of customary law, when he asserts that law may be established "by acquiescence in present action and acceptance of results." The question whether the body that acts or the body that acquiesces is the law-making body is scholastic, rather than practical; but it may perhaps be fairly argued that the acceptance of the latter theory would make a legislative act a mere proposal of a rule, to be transmuted into law by general acquiescence.

If Professor Robinson has, in this fashion or in any other fashion, reconciled in his own mind the apparently antagonistic dicta of the warring schools, his reason for attempting no express reconciliation is probably to be found in the fact that such an attempt would take the beginner into bewildering fields of controversy and criticism (*cf.* Preface, pp. viii and ix); but if he has worked out any such reconciliation as is here indicated, it is hard to understand why, even in writing for beginners, he does not quietly drop the misleading phrases of the British formalists or limit their application to "written" law.

The other difficulty indicated at the beginning of this notice — the difficulty of placing the work itself — arises from the somewhat unusual combination of subjects in the book. Nearly half of it is devoted to what is commonly called "jurisprudence"; *i.e.*, to the discussion of law and rights in general. The other half — roughly, two hundred pages — is devoted to American law, but is by no means a well-balanced or complete exposition of even the principal features of American law; for a hundred pages are occupied with the law of persons (including corporations), and fifty pages with the organization of the American courts, so that only about fifty pages are left for all the other branches of the law, public and private, substantive and remedial; and of these fifty pages eighteen deal with fictions and presumptions. The make-up of the book is perhaps ascribable to an effort so to extend a course on general jurisprudence as to fill the principal *lacunæ* in the scheme of the average American law school; and from this point of view it is perhaps justifiable.

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The author's statements regarding American public law, and regarding that portion of American jurisprudence which is also general jurisprudence, suggest a few criticisms. His assertion (§ 56) that "citizenship by birth vests in all persons born in any part of the world whose parents are citizens of the United States" is unduly broad; and the statement in the same section that "the admission of new territory with its population into the Federal Union *as a state* bestows . . . citizenship upon all its members" (the italics are mine) is unduly narrow. Administrative law is recognized as a special division of public law (§ 178); but its rules, so far as they are set forth (law of officers and law of public corporations), are concealed in the law of persons (§§ 46–53, 106–112). The author's inclusion, among rules of law, of rules self-imposed (§§ 1, 6, 171) will not be accepted by any reader who regards the sanction as an essential part of a rule of law; and it may be noted that the only illustration given in the field of human law is no illustration, since the state does not limit itself, but only its governmental organs. In § 65 the author apparently classes the status of infancy among "varieties of status altogether artificial." In § 71, where he sets forth the essential characteristics of a corporation, he omits what has been regarded, from Roman times, as one of these characteristics — namely, the exclusion of the direct and primary liability of the individual associates, leaving this to be inferred from what is said of unincorporated associations in § 87. In § 78 he asserts that if two corporations be created, with charters "identical except as to the artificial personality which they create, priority of action on the part of either corporation in pursuance of its charter would clothe it with the right to occupy the field in preference to the other." This statement, obviously, is true only as regards those corporations whose powers are of a monopolistic character, and not true of the charitable corporations and banking corporations mentioned in the same section. "Antecedent rights" are defined as those which inhere in persons "irrespective of the wrongful acts or defaults of other persons" (§§ 126–128), and "remedial rights" as those which are vested in persons "as the result of some wrongful act or default on the part of other persons" (§ 126, 129, 130); and in § 163 it is asserted that the division of all law into "substantive" and "adjective" law is based upon this same distinction — that "substantive law is the law governing antecedent rights" and "adjective law is the law governing remedial rights." Later on, however, it appears that the law of torts and the law of crimes, neither of which can be

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conceived of "irrespective of wrongful acts or defaults," are substantive law (§§ 176, 392). The mistake is, I think, in the last statement. The definition and prohibition of wrongs is logically part of the remedial process, and the law of crimes and torts is remedial or adjective, not substantive, law. To employ against the author a distinction which he has worked out in some of the most admirable sections of this book (§§ 156–161) his view sacrifices the "logical" to the "chronological" relation between rights and wrongs.

In § 139 the author says that "wrongs against negative duties admit of no degrees." This would appear to imply that battery and murder, which are violations of the duty to respect other men's physical integrity, and trespass and ejectment, which are violations of the duty to respect other men's property rights, are respectively wrongs of equal degree. Otherwise the author must assume, as corresponding to every right *in rem*, not a simple general duty of forbearance, but a complex of duties corresponding to express legal prohibitions, which elsewhere he does not seem to do.

The least satisfactory part of the book is that dealing with conflicts of law. Allegiance and domicile are connected in an unfortunate and confusing manner (§§ 66, 196, 197). *Lex ligeantiæ* or *lex domicilii*, and not *lex loci actus*, is said to govern capacity to contract (§§ 196, 199). *Lex domicilii* is said to govern transfers of personal property by gift or contract (§§ 116, 197). It is asserted that when, in order to apply for a divorce, a married woman finds it necessary to possess a different domicile from her husband's, "she can obtain a new one like any other person" (§ 68). None of these statements are in accord either with general international usage or with the tendency of English and American decisions. In another part of the book (§ 311) the statement is made that, when a party to a controversy has obtained a judgment, he cannot afterward sue on the original cause of action. To bar misconception, the author should, of course, have added "in the same state."

The merits of the book are very great. It is not a mere compilation, but the product of serious and independent thinking. The conclusions which the author has reached are set forth clearly and in a very attractive way. If this review has been devoted largely to criticism and to suggestion of possible emendations, it is because the reviewer anticipates that the book will appear in more than one edition.

MUNROE SMITH.

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The Working Constitution of the United Kingdom. By Leonard Courtney. New York, The Macmillan Company, 1901. — 364 pp.

If any one doubts that the English constitution is subject to change, let him compare the working constitution as described by Courtney with the constitution as delineated by Walter Bagehot at the time of the extension of the franchise in 1867. By far the larger part of Mr. Bagehot's book was devoted to the Crown and the House of Lords. In his eyes these filled the important place in the working constitution. Everywhere there was manifest a fear lest a democracy should be impossible in such a country as England. It was assumed that the English needed to be humbugged by the disguise of monarchy — that they needed to be controlled by the competing aristocracies of wealth and family.

Mr. Courtney, on the other hand, assumes a fully established democratic state. Parliament rules the United Kingdom; for practical purposes Parliament is the House of Commons, and the House of Commons derives its authority from the enfranchised nation. The first ten chapters are devoted to the House of Commons, its origin and growth; then one chapter each is devoted to the House of Lords and the Crown. There is no attempt to reconcile these with the democratic state. It is assumed that, so far as the Lords and the monarch remain an effective working force in the state, they must work in harmony with the nation. The monarch can act only as subject to the national will. Several instances are given in which the governor-general in a self-governing colony has exercised authority which would now be regarded as excessive if exercised by the English Crown. In New Brunswick, for example, the governor forced his ministers to resign and forced a dissolution of parliament that he might determine whether the state still approved of a prohibitory liquor law recently passed. A new assembly was chosen which approved of the governor's act and the statute was repealed. The functions of the Crown may likewise be enlarged as democratic traditions become more firmly established in England.

The mere fact that two authors separated by a third of a century exhibit radical differences in their treatment of the subject does not, of itself, prove radical changes in the constitution. The intentions of these two authors were widely different. Mr. Bagehot designed to elaborate a theory, as well as to describe a working constitution. Without a single word of apology or explanation, Mr. Courtney assumes the democratic theory of the state and proceeds to describe

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the working constitution in harmony with that theory. After all due allowance is made for differences between the two authors on account of the difference in plan, there yet remains enough that is common to both to give a vivid impression that a new political world has emerged. Mr. Courtney does not tell us whether or not he believes in democracy. There are, however, representative authors of recent date who exhibit the same fear of democracy which characterized Mr. Bagehot. Among these Sir Henry Maine and Mr. Lecky are conspicuous. But a comparison of these with Mr. Bagehot reveals the same radical change in the English constitution. Democracy is treated as a fact to be reckoned with, not as a theory to be dreaded. Neither Maine nor Lecky trusts to disguises of monarchy or foibles of aristocracy to deliver the state from the evils of democracy.

In Part II, under the title, "Institutions Subordinate to Parliament," Mr. Courtney treats of the judiciary, the church and local government in England, Scotland and Ireland. Part III is devoted to Parliament in relation to the Empire and to foreign powers. In this we have an account of the institutions and the government of the crown colonies, the self-governing colonies, India and foreign relations, ending with a modest and tentative prophecy of what the Empire is to become. That such a variety of topics should be so adequately treated in such brief space indicates a marvellous power of condensation. Mr. Courtney speaks out of the fullness of what he knows as student and statesman, and he has taken pains to make brief but clear statements of carefully selected information.

In view of the present crisis in the Liberal Party in England, it is interesting to observe what Mr. Courtney thinks of the party system. In his chapter on "Political Parties" he points out some fundamental defects in a party system of government. And while he confesses inability to suggest a practical means of governing England without parties, yet, from the fact that both Liberals and Conservatives seek to govern, not according to their professed radical differences of principle, but rather along a medium line between the two extremes, he raises the hope that a way may be found to give to the government permanence and stability, without the falsity and waste of party warfare. In his chapter on elections he refers with approval to Hare's system of minority representation and to the system of proportional representation, as developed in Switzerland, as possible means of giving a more faithful representation of the people and greater stability to the government.

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Reconstruction in Mississippi. By JAMES WILFORD GARNER. New York, The Macmillan Company, 1901. — ix, 422 pp.

Mr. Garner has made a valuable contribution to the history of the Reconstruction period. His book gives the first complete study of a Southern state from the outbreak of civil war to the end of the "carpet-bag" rule; and in thoroughness of research and scientific accuracy of treatment it is not likely to be surpassed. The first two chapters deal with secession and the Civil War, the next two with presidential reconstruction and the economic condition of the state after the war, the fifth with congressional reconstruction, the sixth with the Freedmen's Bureau, the next four with the period of negro rule and the last with the political revolution of 1875. In this field Mr. Garner has apparently exhausted the subject. He not only gives the sequence of political events, but studies the economic results of the war and emancipation, the social conditions of both races, the civil and financial legislation under successive régimes, judicial decisions on controversies arising from uncertainties of legal status, Federal action, both military and civil, educational development and the conduct of the state administration, judiciary and local government. To cover this wide field he has searched every available source of information, including all sorts of public documents of Mississippi and the United States, contemporary newspapers, letters and reminiscences of surviving actors in the scenes studied; yet, in spite of this breadth of view, the book is a marvel of condensation. There is no redundance or superfluity of notes and scarcely any repetition; while the arrangement, partly topical and partly chronological, is well adapted for the purposes of compression and clearness.

The author's fairness of treatment, especially in view of his frank avowal of Southern prejudice, is worthy of high praise. His statements of facts, however damning to the carpet-baggers, are given absolutely without rancor, and he narrates Southern excesses in war time or the Ku-Klux period with perfect candor and without attempt at defense. Still more remarkable is his evident desire to ascribe worthy motives to leaders of both sides. In this respect his treatment of the carpet-baggers appears nothing less than magnanimous. As a result of this effort, the style of the book is rather colorless, and the chapters suffer from a lack of summaries and elucidating comments. We are generally given the facts and left to draw our own conclusions; but that this is the result of severe restraint on the part of Mr. Garner may be inferred from a few places where he breaks

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into half-smothered sarcasm, from a few epithets sparingly applied and from three or four pages where he cannot refrain from an impatient and half-contemptuous argument against the constitutionality of congressional reconstruction.

Most interesting is the light thrown in this volume upon the sentiment of Mississippi leaders after the war, showing its complete acceptance of results so far attained and the ignorance, coupled with vindictiveness, which characterized Northern treatment of the situation. In Mr. Garner's pages the action of Congress toward the Southern people appears like a religious persecution, in which not merely submission to law but the recantation of beliefs was the end sought. To this purpose were the insistence upon a narrowly defined "loyalty," the ironclad oath, the demand that Southern leaders abjure "heresies," the exclusion of ex-Confederates — all of which bears a closer resemblance to the Test, Corporation and Uniformity Acts of the Cavalier Parliament of 1661–79 than to anything in the nineteenth century. This is shown very clearly in the changing uses of the word "loyal." At first it applied to one who was not an original secessionist, then to a person who had not given "aid and comfort" to the Confederacy; later to one who would abjure secession heresies, after that to one who would accept the reconstruction constitution, and finally to a member of the Republican party in good standing. All this Mr. Garner shows without rancor and almost without any expressions of opinion.

It is to be observed, however, that Mr. Garner omits to notice one very important reason both for reconstruction legislation and for radicalism in general. He nowhere recognizes the color given to the situation by the attitude of President Johnson and of the Northern Democratic party, and treats the Republican policy as resulting from mere intolerance, rather than from a struggle for self-preservation. Again, it is noticeable that Mr. Garner's book leaves the impression that there were few or no "unreconstructed" rebels in Mississippi after the war. This may be true, but certainly the Northern newspapers were able to collect utterances far more belligerent than any noted by Mr. Garner. Then, too, in describing the famous election of 1875, the author dwells very justly upon the disorganization of the Republicans, as causing their defeat, but appears to minimize somewhat the effects of Democratic intimidation. These points are, however, the only ones in which the author appears in the slightest degree to fall short of ideal impartiality.

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Had Mr. Garner begun with a survey of ante-bellum political methods, and had he carried on his work through the adoption of the constitution of 1890, thus completing the "undoing of reconstruction," the volume would perhaps have had a still higher value. Yet as it stands, it constitutes a work which no student of recent United States history can afford to overlook.

OHIO STATE UNIVERSITY. THEODORE CLARKE SMITH.

The Old New York Frontier. BY FRANCIS WHITING HALSEY. New York, Charles Scribner's Sons, 1901. — xiii, 432 pp.

To those to whom the title promises a study of "the frontier" as Professor Turner conceives it, this book will be a disappointment. It is rather the story of a region, told by one whose pious interest in the home of his fathers renders everything connected with the past of that locality precious. It is perhaps an inevitable result of the comparative antiquity of the East that studies of Eastern regions in their frontier period should be written from the standpoint of filial piety and with somewhat limited perspective. It seems not too much to hope, however, that at some time we may have the story of the winning of regions which have once been "West" told from the point of view of one interested in a process, rather than in a locality; for this process is one of the most characteristic of all the developments of our national life. The present work does, indeed, relate the story of the winning of the valleys of the Upper Susquehanna and its tributaries from the Indians and Tories, but towards the adequate treatment of the economic and social redemption of the locality from its undeveloped condition it makes only a beginning.

But this is only to say that the book has the defects of its qualities. As a piece of "local history," done on good traditional lines and with much more than usual diligence and care, it is a success. Much material has been used which, while not exactly new, has at any rate so far been almost entirely neglected and, by reason of its scattered condition, practically inaccessible; and it is distinctly worth while to have this material brought together and put into orderly shape. The author has done a service not only to the dwellers in the region described but to the general reader. The style is good, though occasionally a bit scrappy, the matter is interesting throughout and the book deserves to be widely read.

One might carp a little at the title. The region of the Upper Susquehanna, whose story the author tells, is *one* of the old New

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York frontiers, and possibly its strategic importance during the War for Independence was sufficient to justify its claim to be a large part of *the* New York frontier. But, taking New York history as a whole, the old New York frontier included the Champlain-Hudson territory quite as much as the Mohawk-Susquehanna. This criticism might be regarded as captious, were it not that the emphasis revealed by the title is characteristic of the attitude of the author towards his subject. It is preëminently the story of the Unadilla Valley during the War for Independence and the rest of the eighteenth century in which the author is interested.

The period of the Indians and fur traders is rather lightly handled, the view taken of the Iroquois and the Indian situation in general being highly rose-colored, while but slight attention is given to the dealings of the Dutch traders during either Dutch or English periods. For the period of the missionaries a good service is performed by working out more fully than ever before the connection of New England missionary activity with this region. It may be pointed out here that long before the labors of Sergeant and the Stockbridge Mission, in 1736, there had been coöperation between the New York provincial government and the "Society of Boston for the propagation of the Christian faith —" indeed, as early as the time of Dellius in the last decade of the seventeenth century. So far as influence upon the particular territory of the Upper Susquehanna is concerned, however, the work of Sergeant was probably first. It is this exposition of missionary connection with New England and its resulting domination of the locality after the Revolution by New England and particularly Connecticut immigration, that constitutes one of the chief values of the book.

Another direction in which a distinct contribution is made, is in rationalizing the history of the Indian raids during the War for Independence. The Indians were puzzled by the quarrel between the Americans and the home government, were inclined in the early part of the war to treat with both sides, and only after Oriskany had supplied a motive most easily intelligible to them, *viz.*, revenge, sided unreservedly with the Tories. Brant's leadership and the use of the raid as a part of the general British campaign are well described, as well as the general vacillation of the continental leaders in their policy towards this frontier until the Sullivan expedition.

A beginning is made towards the history of the development of the region after the Revolution by a chapter on the highways

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running westward through the locality and a short chapter giving a few facts of economic interest, extracts from contemporary account-books and the like. As a collection of history material, this chapter is not extensive enough; and it is hardly sufficiently organized to call it more than history material. But it is in the right direction, as are the chapters on land-titles. It is to be hoped that we may some time have this later aspect of this later period fully told.

COLGATE UNIVERSITY. CHARLES WORTHEN SPENCER.

German and Swiss Settlements of Pennsylvania. By OSCAR KUHNS. New York, Henry Holt & Co., 1901. — 257 pp.

In nearly all that has been written heretofore about the Pennsylvania-German either he has been treated as a part, and almost invariably as a very unimportant part, of a larger field of inquiry or, as has been the case more frequently in recent years, particular phases of his history and character have been brought under the lens and subjected to a microscopic study. The first sort of treatment may be found in a large class of historical works, national, state and local; generally he is dismissed with scant consideration, often the pen is unsympathetic, while not infrequently the tone is one of ill-disguised contempt. The second mode of treatment is illustrated by the excellent monographs published by the Pennsylvania-German Society since its organization ten years ago, as well as by the writings of Seidensticker, Pennypacker and Sachse. *German and Swiss Settlements in Pennsylvania* stands midway between these two classes of writings; for, while it lacks the exhaustive treatment and fullness of detail of the one, it also avoids the superficial and inadequate treatment of the other. Its purpose is to give a complete yet concise view of the beginnings of the Pennsylvania-German race, to describe their manners and customs, and to gauge their influence on American life. Of its class it is probably the best that has yet appeared. The author traces his descent from pioneer German settlers in Lancaster County, that classic ground of the Pennsylvania-German, and writes, therefore, in full sympathy with the people whom he portrays. In his preface, true to his ancestry, he promises to eschew mere rhetoric and let the facts speak for themselves; and no one who reads the book will say that the promise has not been kept.

In his study of German and Swiss immigration the author confines himself to the period from 1683 to the beginning of the American Revolution, the generally accepted limits within which the

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planting of the Pennsylvania-German race was accomplished, and during which period nearly 100,000 Germans and Swiss came to Pennsylvania. The chief causes of this extensive immigration the author finds in the long series of destructive wars which swept over Germany in the seventeenth and eighteenth centuries, beginning with the Thirty Years War and ending only with the Seven Years War a century and a half later; political oppression; religious persecution; the evils of the feudal system; the extravagance and heartlessness of the princes, who thought their rank and dignity as independent sovereigns could be maintained in no other way so well as by a servile imitation of Louis XIV; inducements to emigration held out by religious, philanthropic, political and commercial interests; and, finally, a certain *Wanderlust* which is declared to be "a distinguishing trait of German character from the dawn of their history down to the present," though ever in strange combination with love of home and country. All this is hurriedly sketched in a brief chapter of twenty-nine pages — all too brief, in view of its importance and the numerous excellent authorities at the writer's disposal. This is the least satisfactory part of the book and the reader might well wish that more had been made of it.

On the other hand, the character of the Pennsylvania-German, his manners, traits and customs, are portrayed with commendable fullness. His successful vindication at the hands of the author from the old and reiterated charge of ignorance is particularly satisfactory. This charge, as the author shows, rests exclusively upon the opinions entertained of the early German and Swiss settlers by their English neighbors, who did not understand them, whose fear of the French made them suspicious of everything that was foreign and who, in their insular narrowness, it may be added, failed to comprehend how any one ignorant of the English language could be educated or intelligent. While not highly educated as a rule and while such sects as the Dunkards and Mennonites were conscientiously opposed to all forms of higher education as harmful and unnecessary, they were neither ignorant nor illiterate. The large mass of books, pamphlets, almanacs and newspapers issued each year from the German presses at Ephrata, Germantown and Philadelphia show that they must at least have been able to read. Their opposition to the charity schools of the middle of the eighteenth century and, later, to the public-school system of Pennsylvania, which has usually been held up as convincing proof of ignorance and stupidity, was based on other grounds than opposition to education, as such.

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The charity schools were inspired largely by political considerations, and were suspected of being aimed at the German language. Moreover, they were a charity and the Germans resented that. Their opposition to the common-school system was based on the ground that it tended to withdraw education from the control of the parent. They were not opposed to education, as such, for at the time they were maintaining schools everywhere in connection with their churches; but they were opposed to a system which ran counter to their notions that a child belongs to God, then to the parents, then to the state, and that the chief responsibility for education rests upon church and parents. An additional cause of opposition, as before, was their attachment to their own dialect.

The peculiarities of the Pennsylvania-German dialect are accounted for by the fact that the early settlers came chiefly from the Palatinate, Württemberg and Switzerland. Of these the last two were almost pure Alemannic, while the first was Frankish, with a strong infusion of Alemannic. Naturally the dialect would be a mixture of Alemannic and Frankish elements; and to the different proportions in which they have entered into the mixture in different districts are due certain variations which are still observable, although the author declares that the dialect has now become in general homogeneous. In this he is too sweeping. There is, for instance, a broad difference of dialect between the northeastern and southwestern portions of the Pennsylvania-German district; while differences of pronunciation and intonation, the use of the same word with different meanings or of different words with the same meaning, are often sufficient to identify a particular locality. A rich field lies open to the investigator along this line.

In their religious life the Pennsylvania-Germans present peculiarities to which no class of people that settled in the New World can offer any comparison. The movement of the Germans and Swiss to Pennsylvania was primarily and predominantly religious in character. The Pietistic movement that swept over Germany in the seventeenth and eighteenth centuries gave rise to a large number of sects, nearly all of which were transplanted to Pennsylvania, so that Penn's colony speedily became a veritable Babel of religions. At that time the German mind was in a ferment and, as some one has said, threw off sects almost every day. If a complete list could be made of all the sects found among the Germans in Pennsylvania since their first arrival, it would hardly fall short of fifty or sixty. While the author briefly describes most of the religious bodies still

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in existence and one or two that have become extinct, he misses the full significance of this religious heterogeneousness. Its influence was felt in every sphere of activity. It accounts for certain peculiarities of Pennsylvania politics to-day. It largely explains why the Pennsylvania-Germans have produced comparatively few great statesmen and men of national reputation, and why they have not stamped themselves so strongly on the country as their numbers would warrant. It long retarded the educational development of southeastern Pennsylvania. It is responsible for the strong tinge of individualism by which the Pennsylvania-German character is marked, as well as for a certain narrowness of social interest and feeling.

This is a thoroughly readable book, rich in citations of authorities, with a splendid bibliography. No better book can be recommended for a general view of the subject, particularly to those who have yet to begin the study of this peculiar people. Its weaknesses and defects are summed up in the statement that it attempts too much for its limited pages.

A. V. HIESTER.

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Das französische Gewerberecht und die Schaffung staatlicher Gesetzgebung und Verwaltung in Frankreich vom dreizehnten Jahrhundert bis 1581. Ein Beitrag zur Enstehungsgeschichte der vollkommenen Staatsgewalt. Von RUDOLPH EBERSTADT. (Staats- und socialwissenschaftliche Forschungen, herausgegeben von Gustav Schmoller, Band XVII, Heft 2.) Leipzig, Duncker & Humblot, 1899. — vii, 459 pp.

This is a work of first importance to the student of economic history. It represents, furthermore, the first attempt that has been made adequately to deal with French trade and industry before the days of Sully and Colbert. With the exception of a few monographs, the four volumes of Thierry's and the invaluable collections of Fagniez, no contribution has hitherto been made to the industrial and commercial history of France comparable with the work of Cunningham and Ashley for England, Pirenne for Belgium, and Inama-Sternegg and Lamprecht for Germany. Thierry's history of the Third Estate is to-day antiquated.

Dr. Eberstadt was five years in preparing this history, which he issued in 1899; and during those years he published in addition two important monographs, by-products of his investigations. In 1897 he opened anew the perennial problem of the origin of the mediæval

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gild and town, by putting forth a work of 250 pages, entitled *Magisterium und Fraternitas*, in which he revived what Pirenne had called the *hofrechtliche Theorie*. He argued that the *Zunft* arose from groups of dependent craftsmen or artisans on a seigneurial estate under the authority of a manorial functionary — the *magister* — and that the *magisterium* represented a stage in the evolution of industrial corporations and likewise of the mediæval town. He was immediately attacked by von Below, Rietschel, Pirenne and Des Marez; for, though von Below does not agree with Pirenne and Des Marez any more than with Lamprecht, he is united with them in opposition to this peculiar theory of Eberstadt's. In 1900 the latter answered his critics with considerable vigor and showed himself a disputant of no mean powers in *Der Ursprung des Zunftwesen*, noticed by Professor Ashley in the June number of this review. In the mean time, in 1898, he had issued a second monograph, *Die Entwickelung der Königmeister*, on the origin and development of the royal right of nominating the *Königmeister* from the time of Charles VI to the eighteenth century. These earlier works, *Magisterium und Fraternitas* and the *Königmeister*, are frequently referred to in the present work, though a knowledge of the detail of each is taken for granted.

In *Das französische Gewerberecht*, which forms the seventy-fourth fascicule of Schmoller's series, the author deals not only with the history of industrial corporations, but also with their relation to the state, to public law and to the rise of monarchy. His study is, therefore, as the sub-title indicates, a contribution to the history of French administration and government; for he aims to show that the industrial organization did not stand alone, but existed as a part of, the central point in, the history of mediæval political institutions. He denies that the *Zunft* should be considered only as an economic factor associated with production and trade, and asserts that its success was not due to economic causes only, or its eventual transformation to the growth of capital and a freer trade policy. He declares that capital and the gild system were not irreconcilable; that the blossoming time of the gild was in an age when the state was organized feudally and the estate system was dominant and private law in control; and that the vital cause of the downfall of the system was the growth of the power of monarchy and of public law, and the rise of that enemy of all things mediæval — the monarchical state. Of course this view is not new, but the prominence given to it by Eberstadt is unusual.

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The period covered by the work is from the thirteenth century, when industry and commerce were almost exclusively controlled by the corporation, to the close of the sixteenth century, when the central power had become the controlling factor. The reader passes through the period of material prosperity from the death of Philip the Fair to the opening of the Hundred Years' War; through the period of internal anarchy which followed, when the conditions of trade underwent a change, and corporations that formerly had been organized on liberal lines were forced to adopt precautions against the competition of foreign merchants, and became in the fourteenth and fifteenth centuries narrow, jealous and oligarchic bodies; through the period of unincorporated industry, *Arbeit in Stuben und Kammern*, to the middle of the fifteenth century, 1437, when Charles VII, having reconquered his kingdom, returned to his capital and inaugurated a period of monarchical restoration. The narrative reaches a new era with the accession of Louis XI, who, like Henry VII of England, saw in trade and commerce the real strength of the state and became "king of the merchants," encouraging the accumulation of capital and founding a state interest in industry. Then the author takes up the last great period, that of the sixteenth century, marked by the cessation of corporate development from within, the extension of corporate control by the state, fast becoming absolute, the increase of personal privileges and immunities and the practical victory of new activities and business methods, based on the individual, over the older system of the incorporated trades. Dr. Eberstadt shows that this was the victory, not of *das unzünftige Gewerbe*, which was deemed disreputable in the Middle Ages, but of *das nichtzünftige Handwerk*, which was quite as honorable as the *zünftige Handwerk;* and he traces three phases in the development: (1) incorporated handicraft (*die zünftige Kunst, ars, scientia*); (2) the unincorporated industry (which was considered dishonorable); and (3) the *freie Kunst* — that is, the non-incorporated but entirely honorable handicraft, which eventually won the victory. He closes the main portion of his discussion with the edict issued by Henry III in 1581, an edict which in the eighteenth century the upholders of natural liberty interpreted as a declaration by an absolutist king of the *droit du travail* as a *droit royal et domanial.* He analyzes this edict with great care, considering its contents and running to earth the origin of this view, which he calls the *Domanialität des Arbeitsrecht.*

Space is lacking here to examine further points of detail or the character of the evidence brought forward. The work is based

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throughout on documentary material and, in the main, particularly for the period after 1437, the conclusions seem to be adequately supported. Notwithstanding the peculiarities of the *magisterium*, and notwithstanding a tendency on the part of the author to sever economic from social history and to rely too dogmatically on the evidence of laws and official regulations, this work is bound to become a first authority upon the subject of which it treats.

BRYN MAWR COLLEGE. CHARLES M. ANDREWS.

Beiträge zur neuesten Handelspolitik Deutschlands. Bände I und II. Herausgegeben vom Verein für Socialpolitik. Leipzig, Duncker & Humblot, 1900–1901. — vi, 336; vii, 222 pp.

Following the conclusion of the Caprivi commercial treaties at the beginning of the last decade, the Verein für Socialpolitik issued several volumes on the commercial policies of the various nations for the twenty years preceding the inauguration of these treaties. In view of the termination of these agreements at the end of 1903, a spirited agitation is now going on in Germany among all classes interested in the formation of new commercial treaties. Science is having its say in the two volumes above indicated, which are to be followed by others in the near future. The present numbers contain articles by one English, one American and six German writers. The contributions of ten years ago were largely historical, recording definite commercial policies which had recently been inaugurated by Germany, France, the United States and other countries. The present series is more largely statistical and aims not so much to record past events as to furnish material which will help Germany in framing her future commercial policy at the expiration of the present treaties.

Judging from the two volumes already issued, the series when completed will give us a most excellent picture of recent economic conditions in the more important countries of the world. Two of the most valuable contributions in the published numbers — most valuable because they strike at the very roots of the present agitation — relate to German agricultural tariffs. They are written by Professor Conrad ("Die Stellung der landwirtschaftlichen Zölle") and Dr. Heinrich Dade ("Die Agrarzölle"). The former is a successful attempt to present the question from the standpoint of the general welfare; the latter is more agrarian in tone, but dignified, scientific and free from the absurd demands met with so often in

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agrarian literature. Dr. Dade comes to the conclusion that the surest and most just grain tariff rates would be the difference between the highest inland cost of production and the price at the frontier of grain brought from the country with the lowest cost of production. Professor Conrad's contribution is full of interest and value. He believes that German and Russian commercial relations will grow more and more harmonious; while, on the other hand, "with the American Union the antagonism of economic interests must grow sharper from year to year and a tariff war in the future is entirely unavoidable (*ganz unvermeidlich*)." He concluded as follows:

> Our agrarians still suffer severely under the lower grain prices, and in the near future it is not to be expected that prices in the world markets will advance. Therefore a removal of existing tariffs is for the present impracticable. On the other hand, agricultural conditions are improving and it is therefore to be expected that the depression here will be overcome, as has been the case in other countries, like Holland, Denmark and for the most part England also.

Professor Francke's article on "Zollpolitische Einigungsbestrebungen in Mitteleuropa" is an excellent summary of the agitation which has been going on for some years in western Europe for the formation of some sort of a middle-European tariff union. Although this movement has strong academic sanction in Germany, Professor Francke comes to the conclusion that a "customs agreement, in the sense of a complete union of two or more independent states in a single tariff union, is entirely out of the question for the present at least."

Professor Hewins contributes an article on "English Imperial Federation," in which he gives us a very good picture of the present political attitude in Great Britain on this question, but he is careful to avoid prophecy. His contribution finds a good complement in Karl Rathgen's article, "Die englische Handelspolitik am Ende des neunzehnten Jahrhunderts."

The first article in the series under discussion is one by the undersigned, entitled "Die Handelspolitik der Vereinigten Staaten, 1890–1900"; while the last articles of both volumes, "Die deutsch-russischen Handelsbeziehungen" and "Die deutsch-amerikanischen Handelsbeziehungen," written by Dr. Carl Ballod, deal primarily with the trade statistics of the United States and Germany. Mr. Ballod appears to share Professor Conrad's view regarding the economic relations of the Fatherland to Russia and the United States. He

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concludes that "Germany has no good reason to want a tariff war with America nor no reason for greatly fearing such an issue. . . . It would be desirable if a *modus vivendi* between Germany and America and Russia could be found which would have for its result no too violent economic disturbances."

GEORGE M. FISK.

TOME INSTITUTE, PORT DEPOSIT, MD.

The Social Problem: Life and Work. By J. A. HOBSON. London, James Nisbet & Co., 1901. — 295 pp.

The particular excuse for the appearance of this volume is that it attempts to introduce us to the science and the art of social progress. Whether there is room for a general science of sociology on the broad lines which certain writers have attempted, is more than doubtful. But there is no doubt whatever that there is room for a theory of social progress. The welcome that is given to such works as Mr. Kidd's *Social Evolution*, with all their imperfections, and the general interest which is manifested in contributions to the problem of social improvement, whether they come from economic, ethical, biological or medical sources, show plainly enough that here is a field of knowledge where the interest far exceeds the supply of trustworthy information. It is also apparent that the construction of a theory of social progress will require the examination and analysis of factors and forces which are not ordinarily included within the scope of purely economic inquiry. This volume deserves a place, therefore, even if it does no more than to force economists to see the limitations of their science when strictly defined. It also deserves commendation for not attempting to give us a complete science of society.

The author divides his book into two parts, which he calls respectively "The Science of Social Progress" and "The Art of Social Progress." In the division of his material, however, it is not easy to see that he has followed any clear line of division between art and science. Under the "Science of Social Progress" he discusses such unrelated subjects as "Waste in Work and Life," "The Old and the New Political Economy" and "Necessaries and Luxuries." Under the "Art of Social Progress" he brings in the discussion of such abstract topics as the "Rights of Man," "Is a Leisure Class Desirable?" "Society as Maker of Values," "Distribution according to Needs," the "Problem of Population" and the "Range and Area of Social Utility."

While the author is probably right in contending that it will be impossible to construct a theory of social progress out of the materials

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with which political economy ordinarily deals, he is by far too severe in his criticism of that science. He seems to forget that a science which deals wholly with the relations of causes and results may be a very useful science, even though it does not attempt to assess the value of those results. The fact that political economy does not go back of market values and engage in the consideration of general social values may furnish whatever ground there is for the development of another science, — sociology, for example, — but it can furnish no reason whatever for the condemnation of political economy. If it did, every positive science would be brought under the same condemnation.

The author's demolition of the ancient fallacy that a leisure class is desirable is quite satisfactory. But he goes farther and rejects the doctrine of distribution according to productivity, because of the difficulty of distinguishing between the products of different factors. At the same time, he accepts the doctrine of distribution according to needs, in spite of its difficulties — which seems very much like straining at a gnat and swallowing a camel. He further justifies the taking over by the state of a larger share of the income of the community, on the ground that society is the chief maker of values. This looks like applying the doctrine of distribution according to productivity to the income of the state. It would seem that, if distribution according to needs is to be applied at all, a good place to begin is with the income of the state. But if society in its organic capacity is to be allowed a large income, on the ground of its share in production, what is the harm of allowing individuals a large income on the ground of their superior productivity. However, it must be said that in his chapter on "Society as Maker of Values" he thoroughly demolishes Mr. Herbert Spencer's shallow contention that society has no part in the creation of wealth.

On the whole, the most original and suggestive contribution which the author makes is his proposed line of division between public and private industry. This is the line between machinery and art. Machine production, involving the control of large wealth and consequent power of exploitation, and being largely routine work, unfits it for private and fits it especially for public management. But art is essentially individualistic and cannot be brought under public control. To do so would be to reduce it to a rule of averages which destroys art.

The author's measure of social failure is found in the expression "Waste in Work and Life," and of social success in the expression

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"Economy of Work and Life." Under his treatment of the question, this can scarcely be objected to; yet he by no means satisfies us that a vastly greater economy of work and life is not attainable under the individualistic than under the socialistic *régimé*. The prospect held out by the new gospel of individualism, as expressed in the closing paragraphs of Mr. Spencer's *Principles of Sociology*, is more alluring, and probably more attainable, than anything which the socialist has to offer.

T. N. CARVER.

HARVARD UNIVERSITY.

La Coöpération: Conférences de Propagande. Par CHARLES GIDE. Paris, Librairie de la Société du Recueil Général des Lois et des Arrêts, 1900. — 315 pp.

The well-known Professor of the University of Montpellier, who is also *chargé de cours à la Faculté de Droit* in Paris, has brought together, in this modest volume, ten addresses delivered within the last twelve or thirteen years, on coöperation, and has added to them a very appreciative paper on "The Prophecies of Fourier." Announcing at the beginning of this address that he is to speak of a "fool," and even of "the most complete fool to be imagined," and justifying this statement by quoting Fourier's forecasts of an ocean turned into lemonade and an earth illuminated by four new moons, Professor Gide goes on to instance other prophecies of Fourier which have, in truth, anticipated our own age and shown themselves to be the highest reason. Such were his predictions that one might soon leave Marseilles in the morning and reach Paris by evening, and that the isthmuses of Suez and of Panama would be pierced by canals. It is, however, with the phalanstery and the association of labor, of course, that Professor Gide is mainly concerned in this judicial estimate of Fourier's work.

The ten *conférences de propagande* were brought together as a contribution to the literature of the Universal Exposition of last year, and they make no pretense of being a complete treatment of all phases of coöperation in France. Nevertheless, they treat the most important points in its past and present, with a sane outlook into its probable future. The address on this last point indicates the chief difficulties which coöperation has to meet in France. "The first is the spirit of division, that fatal spirit which seems to be a constitutional infirmity of our race." Any one who has seen M. Gide himself presiding, as at Paris in 1900, over a tumultuous assembly of coöperators (the kind

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who like to talk all at once with great vehemence) will easily believe that the coöperative spirit is too frequently absent from French societies of coöperative name. But as in the president's chair, so here, Professor Gide preserves the philosopher's calm and the firmness of the man of science in all his zeal of propaganda. Socialism and the revolutionary spirit are two other great causes of the backwardness of French coöperation. But, despite the potency of these three causes, Professor Gide has faith in the future of coöperation in his country. He is himself of that elect band who choose to dwell on the cöoperative ideal, when they address societies of consumers or producers, rather than on points of bookkeeping or matters of buying and selling. Vansittart Neale and G. J. Holyoake are his brothers in spirit, not the directors of the English Wholesale Society. But with his main reliance on ideas, he is faithful to humble fact and duly concerned to give it proper place. The student of coöperation in France will not find a better statement of the record, the present situation, and the strength and the weakness of the movement than is given by this unpretending but very readable and entirely trustworthy volume.

NICHOLAS P. GILMAN.

MEADVILLE, PENN.

An Inquiry into the Conditions relating to the Water Supply of the City of New York. By the MERCHANTS' ASSOCIATION OF NEW YORK, 1900. — xxxix, 627 pp.

This large volume is typical of the best and, at the same time, the worst features in American public life. It is probably the most elaborate, painstaking and scientific work yet produced by public or private authority on the water supply or any other important department of an American city. The fact that the investigation was undertaken by a voluntary association of merchants and carried out entirely under the direction — and also at the expense — of this body shows, as has been shown so often before, that improvements in the public service in this country usually come from private initiative, rather than from trained expert public officials. Such private initiative cannot, however, generally be invoked except in the face of actual or imminent public wrong of the most flagrant sort.

The story told by the work under review is simple, yet startling. On August 16, 1899, the commissioner of water supply of New York presented to the board of public improvements for confirmation a contract with a private water company — the Ramapo Company — for

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furnishing the city with an additional minimum supply of 200,000,000 gallons of water a day for a period of forty years, beginning with 1902. The stipulated price was seventy dollars a million gallons, delivered near the northern limits of the city. Under this arrangement the city would have paid this company more than $5,000,000 annually for forty years, and would still have had to meet all the costs of distributing the water — estimated at ten dollars a million gallons. Furthermore, at the end of the period the city would have been compelled to renew the contract on conditions determined by the company itself.

The commissioner of water supply asked for the immediate approval of this contract by the board, on the grounds that a genuine water famine threatened the city before it could construct new works if it had the money and that, under existing conditions, constitutional limitations prevented the city from raising sufficient money to build the necessary works. Of course it was claimed, also, that if there were no other difficulties, the contract price was less than the water could be furnished for under public ownership and management. Although a majority of the members of the board of public improvements expressed themselves at this meeting as in favor of the contract, Controller Coler, a member of the board, got action on the contract postponed for two weeks — not for four, or even three, weeks, as he asked in turn. Then he made a partial report of such vigor as to compel further postponement, to give time for investigation.

The Merchants' Association then came to the rescue and conducted an investigation which lasted till August, 1900. The nature of their work is shown by the statement of the president:

> For more than seven months the Committee on Water Supply has labored with great earnestness and persistence. The sub-committees have met from two to five times per week; some of the members have given constant daily supervision to the subject in their charge; others have given much time to special investigations. . . .
>
> The committee has employed continuously a paid working staff of from twenty-five to thirty-three persons, comprising six principal engineers, each in charge of a special division of the work, with the necessary assistant engineers, draftsmen, stenographers, etc. [p. xxviii].

Each of the sub-committees — including among their members some of the ablest men in their respective lines in New York — makes one or more formal printed reports, on which the report of the whole committee is based. The report covers substantially every important phase of the past, present and future water supply.

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The present consumption of water in New York is about 371 million gallons daily. Any very considerable enlargement of this supply will require new sources. Of this supply, "which approximates the lowest (per capita) consumption in any large city," about forty-five per cent is pumped and the remainder is furnished by gravity. Even with some decrease in waste and some enlargement of the present works, the present sources cannot be counted on for an adequate supply beyond the year 1910. On the other hand, to construct works and procure enough good water from suitable sources will require about seven years after beginning the work.

The Committee concludes that legal obstacles make unavailable all interstate sources and that, in view of probable future needs, but two adequate and suitable sources remain: these are, first, waters from the Adirondack region, to be taken from the upper Hudson at Hadley; and, second, the waters of the Hudson, to be taken above salt water influence at Poughkeepsie. Either source would furnish from 1000 to 1500 million gallons a day. This, with the present supply, is considered sufficient for a population of from fifteen to eighteen millions. The estimated cost of an additional supply from Poughkeepsie of 250 million gallons daily is 36.8 million dollars for construction and 2.58 million dollars for annual maintenance, or an average cost (at the city limits) of $28.33 per million gallons, as compared with $70 under the proposed Ramapo contract. The cost for 500 million gallons from this source is placed at $30.39 per million gallons. Figures on the same basis for waters from the upper Hudson at Hadley are, for 250 million gallons, $30 a million gallons; for 500 million gallons, $29.25 per million gallons.

Although the records of the water department are chaotic and deficient (a condition already greatly improved as a result of this report), the Committee concludes that in the sixty-seven years to the close of 1898 the capital investment in the water works amounts to 86.3 million dollars, and the charges for interest, maintenance, and operation amount to 66.5 million dollars. This, with gross earnings of 88 million dollars, leaves a net profit of 21.4 million dollars from operation. The city has received on an average but $52.87 per million gallons for all water furnished by the Croton works since 1865. The profits from the present system were nearly $2,000,000 in 1898, while the estimated annual profits by 1910 are put at about $4,000,000. It ought also to be noted that this estimate was made before the Merchants' Association discovered by a later investigation, the results of which were made public November 22, 1900, that

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there is since 1879 an unexplained deficiency in the water fund of $4,107,372. This deficiency is in no measure due to uncollected bills, but is a clear discrepancy between the official reports of the value of water sold and the alleged water receipts, after deducting all bills reported as uncollected. As compared with the proposed price of $70, the Committee finds that the cost for the water from the Croton system in 1849 was but $54.20; the average cost from 1868–1898 (inclusive) was $35.06, and for the year 1898 but $29.07. The cost of water from the Croton works from 1898 to 1910, the latest period for which present sources will suffice, "will be under $25 and probably in the neighborhood of $20" (p. 7).

The final and total loss by accepting the Ramapo contract, as compared with procuring water under municipal ownership and operation, is put down at $195,460,070.87 for the term of forty years. The Committee shows conclusively that no insuperable constitutional or statutory provisions prevent the city from furnishing its own water. Not the least interesting part of the report is that which shows how the Ramapo Company — charted in 1887, under an act of 1848 — by insidious means and slow degrees succeeded in getting from the legislature greater powers of condemnation than any city or village in the state had. At the same time, and in the same occult manner, the company put through legislation depriving New York City of the right to get water from certain sources without the consent of the county authorities, or to get it from any sources whatever by condemnation, provided that said sources were already used in whole or in part for supplying water to any other locality. Under this legislation the Ramapo Company had already obtained control of many of the best sources before descending upon the city with its proposed contract. Having itself got a legal monopoly of nearly all the available sources, and having tied the hands of the city by legislation, the company evidently thought the way clear for a contract very favorable to itself.

The volume under review is a monument at the same time to the indifference of the mass of the people on matters touching the general welfare and to the genuine public spirit of some of the citizens of New York. It marks an era in the investigation of municipal government in America. The work is well supplied with maps, charts, drawings, diagrams and statistical tables. It will prove indispensable to any one interested in the water supply from almost any standpoint, and useful to those interested in any of the broader phases of our political or civic life.

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NORTHWESTERN UNIVERSITY.

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The Evolution of Modern Money. By WILLIAM WARRAND CARLILE. London, Macmillan & Co., 1901. — xxiii, 373 pp.

Entertaining, certainly, whether convincing or not, must be any book in which the author attempts so much as does Mr. Carlile. In his preliminary discussion of the history of the coinages of Europe, he gives us a new point of view as to the time of the establishment of the gold standard; and then, as he develops more fully his theory of money, he rehabilitates the Mercantile doctrine, asserts the uselessness of index numbers, shatters such idols of the conservative economists as Gresham's law and at last enters the economic holy of holies, to lay violent hands on the Austrian theory of value!

To appraise such a book justly must obviously be difficult under any circumstances, but in this case there are special conditions which increase the difficulty. Thus, the culmination of Mr. Carlile's theory is reached in Chapter VI of Part II, where he begins by warning us against axioms:

> We have, for example, the doctrine which is presented to us by Professor Walker, among others, as axiomatic, the doctrine that a fall in the price of *any* commodity, and an "appreciation of gold" in respect to it, are "in effect synonymous" [p. 311].

Following up the reference in the footnote to Walker's *International Bimetallism*, p. 254, we find that this writer really said:

> The fall of gold *prices* and the appreciation of gold . . . are by the bimetallist treated as in effect synonymous.

And on the next page he added:

> My own view inclines to regarding the term, appreciation of gold, as being the same thing with the fall of *general prices* [p. 255].

A natural suspicion, thus aroused, that Mr. Carlile reasons somewhat loosely, is confirmed by his further statement that

> The axiom in question . . . proves too much. It is maintained that if potatoes, *or* corn, *or* silver can be said to have fallen 10 per cent, then it would be equally accurate to say that gold had risen 10 per cent. If this theory were valid, . . . everything in this world would then necessarily be equally stable and equally unstable [p. 316].

This failure to distinguish between a fall in the price of a single article and a fall of general prices is typical of the author's method of reasoning at many points in his demonstration.

The central feature of Mr. Carlile's distinctive theory of money is his answer to his own question, Why does any substance become

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generally acceptable, as a standard of value? The most acceptable commodity, says he, will be that one whose value most closely approximates to unvariability; and, since all goods which satisfy material wants lose value when the point of satiation is reached, the most trustworthy standards are those goods which serve to gratify the insatiable taste for ornament.

As civilization advanced, however [he adds], it was found that the distinction that men covet came to be attached less and less to the display of any special description of ornament, and more and more to the general power of expenditure on ornament. . . . Accordingly . . . the desire for wealth, for money, for gold or silver, has appeared to unnumerable observers of human affairs to be insatiable. If however the desire for this one commodity is truly insatiable; if the nature of things is such that the demand for it must automatically increase whenever the supply is increased, . . . then there is surely no reason why this commodity should fall in value whenever fresh discoveries chance to cause an increase in its supply, but every reason, on the contrary, why it should remain stable in value irrespective of such increases [pp. 336–338].

In regard to the theory of the standard generally . . . it is very necessary . . . to keep distinct in our minds the causes that lead, in the first instance, to the assumption by any commodity of the position of standard money, from the causes that maintain it in that position, when once it has been attained. . . . It is to the love of display no doubt that we owe it that the metals of ornament first distanced the metals of utility in becoming money; but if we suppose the monetary status once attained by them, then the rigidly rational side of human nature, the side that looks to self-preservation alone, will come into play also to maintain their acceptability thenceforward unimpaired [pp. 277–278].

The two desires, then, the one for distinction in the present and the other for security in the future, are the two elements in human nature that have made and that now maintain gold as the standard of values [p. 280].

The reasoning behind these conclusions is as follows:

It has been too hastily taken for granted that an increase in the supply of any commodity whatever must, of necessity, result in a diminution of its value. Increase of supply cuts down values in so far as it satiates demand, but in so far only. By Mr. Jevons and the Austrian school of economists this important qualification seems to have been, to some extent, overlooked. They accordingly set forth the proposition as an absolutely universal one, that, for every successive increment of supply there is of necessity a successive diminution in the "utility," that is to say, in the "wantedness" of the thing supplied, till presently this utility altogether vanishes. . . . [But] with men, in the pursuit of wealth, there is ordinarily no satiation. . . . [Men want] not only to satisfy present needs, but to make some provision

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for the satisfaction of future needs [and to secure distinction in the eyes of others]; . . . it is to the maintenance and to the improvement of this "position" that nine-tenths of the exertion of civilized man is directed; . . . and the one thing that, in the world as we find it, can fulfil the hopes of youth and can dissipate the anxieties of middle life is increased command of gold, of the medium of exchange. *What wonder then that the demand for gold appears to be altogether incapable of satiation* [pp. 252–267].

It will be observed that this theory is based on (1) a misinterpretation of the doctrine of marginal utility and (2) a failure to distinguish between a demand for gold, as money, and a demand for commodities. If the theory is sound, one must obviously seek elsewhere for the proof.

In his historical introduction Mr. Carlile has apparently been somewhat more successful. He writes:

> There is no English writer, so far as I am aware, who does not take it for granted, without further inquiry, that silver was the standard money both of England and of all Europe up to the beginning of the eighteenth century [p. 149].

But he concludes, presenting much evidence in support of his opinion, that

> If we look generally at the period ranging from Edward III to George III . . . we shall, I think, be led to the conclusion that, throughout the whole of it, the position of the real though latent standard must be accorded to gold [p. 76].

Admitting that silver was often the actual medium of exchange, particularly for retail transactions, within a given country, he asserts that, as gold had the preference in foreign trade, it was really the mediæval standard of value.

In the author's discussion of monetary conditions in the middle ages appear many interesting facts and some conclusions of minor importance. Indeed, most of the value of this book lies in the strictly historical matter; for, whenever the author has entered into questions of theory, the results leave much to be desired. Some of his criticisms of current economic doctrines are sound, some of his suggestions are full of promise, but hardly a page of his discussions of theory will bear the test of logical analysis.

A. M. Day.

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RECORD OF POLITICAL EVENTS.

[From May 10 to November 10, 1901.]

I. THE UNITED STATES.

FOREIGN RELATIONS. — Consistently with its policy in the case of Russia (see last RECORD, p. 370), the Treasury Department has imposed countervailing duties upon importations of sugar from Italy and the Argentine Republic. — On July 10 the Turkish government paid substantially the amount of indemnity demanded by the United States for outrages committed in Armenia several years ago. — In the same month an extradition treaty was concluded with Roumania. — For the action of the United States in reference to the settlement of the Chinese indemnity, see **The Orient**, p. 755.

THE DEPENDENCIES. — The surrender of insurgents in **the Philippines** has been fairly continuous; but in certain islands where a civil régime has been set up, and even in parts of Luzon, the disaffection became so great as to necessitate a practical reversion of control to the military authorities. Particularly was this true of Samar, where, on September 28, a company of seventy-two American soldiers was surprised by a party of several hundred insurgents, and only twenty-four of the Americans escaped slaughter. Orders were then issued confining the inhabitants to the towns until the island should be thoroughly pacified. — In the realm of civil affairs the most important event was the **separation of the civil from the military administration**, effected by an order of the President, June 21, appointing Judge Taft, the head of the Commission, civil governor of the Philippines, and thereby relieving the military governor of his civil duties in the pacified provinces. On the next day General Adna F. Chaffee succeeded General MacArthur in the command of the military forces. The formal inauguration of the new system occurred July 4. Still later, the Philippines Commission was so reorganized that each member will have charge of an administrative department, and the number of the Commission was increased to eight by the inclusion of three natives. In **the work of the Commission** an act of June 12, providing for a complete reorganization of the judicial system, occupied a prominent place. By it the supreme court of the archipelago was made to consist of seven justices, four American and three native; and sixteen courts of first instance were erected, over five of which natives will preside. A considerable portion of the work hitherto done by these subordinate courts in criminal matters was transferred to justices of the peace. Supplementary to this act, a new code of civil procedure, which authorized the use of either Spanish or English in

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judicial transactions, became effective September 1. Another matter of judicial moment was the adoption in October of stringent laws against libel. As jury trial is not provided for, the extraordinary powers conferred upon the judges aroused considerable objection, especially from the newspapers. The same may be said of a measure approved November 5, imposing heavy penalties for treason, seditious utterances and other like offenses. Further acts that concerned the Philippines as a whole established a protective tariff and created an insular constabulary, giving to it incidentally certain powers of supervision over the municipal police. Of importance to the city of Manila alone was the issue of a charter, July 31, establishing a municipal government modelled in many respects after that of Washington, D.C. A board of three commissioners is invested with executive and legislative authority, under the general control of the insular administration. Subject to the civil-service rules, this body will select the heads of departments, together with the members of an advisory council representing the several municipal districts. In the matter of taxation the charter provided for the abolition of various taxes on rentals, frontages, salaries and the like, and the establishment in their stead of direct taxes on the value of real property. — Interest in **Cuban affairs** has been centered chiefly in the **action of the constitutional convention** on the so-called "Platt amendment" to the army appropriation law (see last RECORD, p. 373). At first the convention, after adopting a series of declarations embodying its interpretation of the "Platt amendment," decided to add both "amendment" and declarations to the constitution. The authorities at Washington promptly declined to accept what they regarded as essential modifications of the spirit, if not of the letter, of the "amendment." On June 12, therefore, the convention agreed to abandon the declarations and to accept the "amendment" pure and simple as part of the constitution. The only other business before that body was the framing of an election law. As adopted, September 16, it elaborated the system of electoral machinery and prescribed the conditions of eligibility to provincial office, as well as to the position of federal elector. Having thus completed its task the convention was dissolved, October 3. — The single administrative order of note was that issued September 27, lowering the import duties on agricultural machinery and on certain materials for the equipment of railroads. It also abolished the rebate on coffee from Porto Rico. — In this latter island the method of local taxation outlined in the last RECORD (p. 374) proved adequate to render the insular government self-supporting; therefore, in accordance with the act of Congress erecting that government (see RECORD for June, 1900, p. 359), the President issued a proclamation, July 25, declaring the **establishment of free trade between Porto Rico and the United States**. Upon the resignation of Governor Allen, William H. Hunt of Montana, formerly the secretary of the island, was appointed to succeed him.

THE ASSASSINATION OF PRESIDENT McKINLEY. — On September 6, while the President was holding a public reception in the

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Temple of Music at the Pan-American Exposition in Buffalo, an anarchist named Czolgosz, having concealed a revolver under a handkerchief that appeared to cover an injured hand, approached him and shot him twice, one bullet glancing off the breastbone, the other perforating the stomach. For a few days after the shooting the condition of Mr. McKinley held out some hope of recovery, but the second wound proved fatal, and he expired September 14. The popular manifestation of mourning for the dead President was extraordinary. In many parts of the country work was suspended, and people stood with bowed and uncovered heads for a few minutes at the hour on September 19 when his body was being borne to its tomb in Canton. — The formal **assumption of the presidency by Vice-President Roosevelt** occurred on the day of President McKinley's death. In taking the oath of office the new President announced his intention to continue the policies to which the late President had been committed. At his request, furthermore, all the members of the Cabinet agreed to retain their positions.

INTERNAL ADMINISTRATION. — Changes in the diplomatic service have been made as follows: Frank B. Loomis transferred from Venezuela to Portugal, *vice* John N. Irwin, resigned; Herbert W. Bowen, transferred from Persia to Venezuela; and Lloyd C. Griscom, the first secretary of legation at Constantinople, appointed minister to Persia. — In order to relieve the pressure on the money market, usual during the crop-moving season, the Secretary of the Treasury decided, September 10, to utilize a portion of the surplus in the treasury by purchasing bonds to the amount of $20,000,000 and by increasing the deposits in national banks of the receipts from internal revenue. — The **statistics of foreign trade** at the close of the fiscal year showed an increase in the value of exports to the extent of $93,000,000 over the amount at the corresponding time last year, and of $260,000,000 over that of 1899. This increase has been wholly in agricultural products; for the industrial depression prevailing in certain European markets caused the demand for American manufactures to fall behind that of last year by about $6,000,000. — Pursuant to the act of Congress passed at the recent session (see last RECORD, p. 375), on May 13, the Secretary of War issued a formal order reorganizing the army on the basis of 76,000 men. — At the request of Rear-Admiral Winfield S. Schley a **naval court of inquiry** convened at Washington, September 12, under the presidency of Admiral Dewey, to consider the conduct of Schley while in command of a squadron prior to and during the battle off Santiago. Printed attacks on the rear-admiral had put upon him the imputation of insubordination and cowardice.

THE FEDERAL JUDICIARY. — In the forefront of the judgments of the Supreme Court stand **the decisions in the insular cases**, rendered May 27. The cases hinged on the question whether Porto Rico, upon its cession and transfer by Spain to the United States, became at once an integral part of the United States; and, further, whether it became such a part within the meaning of the provision of the constitution relating to the

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uniformity of imposts and excises. In the case dealing with the first question (De Lima *vs.* Bidwell) a bare majority of the court held, that by the establishment of the permanent sovereignty and jurisdiction of the United States over Porto Rico, the latter became a domestic territory of the United States. The duties, therefore, that were levied by the military government, after the establishment of sovereignty, on merchandise coming from the island into other ports of the United States, were illegally exacted and must be refunded. Conversely, the court declared (Dooley *vs.* the United States) that duties collected on merchandise coming from other ports of the United States into Porto Rico should likewise be refunded. The minority of the court in these cases maintained that a territory under the sovereignty of the United States may be constitutionally foreign for some purposes and domestic for others; and that, in respect of the customs laws at least, it would remain foreign territory until Congress by a formal act should see fit to make it an integral part of the United States in the constitutional sense. In the case of Downes *vs.* Bidwell the matter under consideration was the validity of the special tariff provided for Porto Rico by the act of Congress of April, 1900 (see RECORD for June, 1900, p. 359). Consistently with its view in the first case, the former minority of the court, having now become the majority by the adherence of Mr. Justice Brown, held that Porto Rico was not a part of the United States "within the revenue clauses of the constitution," and hence affirmed the constitutionality of the tariff in question, so far as it applied to the imposition of duties upon commodities coming from the island.

STATE ELECTIONS. — Out of the fourteen states where elections were held November 5, the Republicans were successful in ten. They chose full state tickets in Massachusetts, New Jersey, Ohio and Iowa, and secured a majority in the constitutional convention in Connecticut (see below). The Democrats elected their state ticket in Virginia, as well as the legislatures in Kentucky and Maryland.

STATE LEGISLATION. — Questions of **constitutional reform** have been uppermost in the legislative activities of Alabama, Virginia and Connecticut. The principal design in the cases of the two southern states was to assure the political supremacy of the whites. **The Alabama convention**, however, which assembled May 21, thoroughly revised the existing constitution. As to the executive function, it forbade the governor to accept any other office during his term and for a year after its expiration, permitted him to offer amendments to bills that do not meet with his approval, created the office of lieutenant governor and lengthened the terms of executive officials, with a provision, however against eligibility for reëlection. In respect of legislative functions, it authorized the legislature to regulate railroad rates, prohibited under severe penalties the acceptance of railroad passes by judges or legislators, and radically altered the system of taxation for educational purposes. It increased, also, the majorities necessary to secure the proposal and ratification of constitutional

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amendments. The most interesting feature of the new constitution, however, was that relating to qualifications for the suffrage. The provision consisted of two parts, one temporary in operation and directed against the negro, the second permanent, and directed against illiterate and unsettled persons, both white and black. The first part, which is limited in application to the end of the year 1902, requires of every applicant for registration as a voter satisfactory evidence (the board of registration being the judge) of good character, a fair comprehension of the duties of citizenship and the payment of a poll tax; but all persons whose ancestors fought in any war of the United States, except that with Spain, and who have paid their poll tax, are entitled to become electors for life, regardless of the other qualifications. The second part of the provision, which is permanent in application, requires, in addition to the payment of the poll tax, the ability to read and write clauses of the federal constitution, the proof of regular occupation in a lawful business for a stated period or, as an alternative for illiterates, the ownership of a certain amount of taxable property. — In **the Virginia convention** the chief topic for discussion has been the problem whether the constitution, when completed, should be submitted to a plebiscite, promulgated directly by authority of the convention, or laid before an electorate previously abridged by the constitution itself. As to the regulation of the suffrage, two schemes bearing a general resemblance to those of the Alabama convention have thus far been presented. — **The constitutional issue in Connecticut** was the excessive representation of the rural towns in the legislature, to the disadvantage of the large cities. At first the legislature refused to go further than to authorize the submission to the people of constitutional amendments calling for the election of state officers by pluralities and for a reapportionment of the voting districts so as to make the senate a more representative body. Eventually, after the receipt of an urgent message from the governor, the legislature agreed also to submit to popular vote a resolution for the summons of a convention, composed of one delegate from each city and town, to revise the constitution. The result of the elections held in Connecticut, October 7, showed a majority of 20,000 in favor of the amendments and the calling of a constitutional convention, although, as units, the towns voted 128 to 40 against the latter proposition. — A similar resolution was passed by the legislature of New Hampshire. Here, however, the design of the proposed revision was the reduction of the representation of the populous centres for the benefit of the smaller communities. — The legislatures of two other states also approved resolutions for constitutional amendments: that of Pennsylvania to permit the use of voting machines; and that of Wisconsin to establish the prohibition system, as well as to prevent public officers from using railroad passes or telegraph and telephone franks. — An important **judicial decision regarding the taxation of corporate franchises** was rendered by the supreme court of Illinois, October 24. It held that the franchises and capital stock of corporations should be taxed absolutely on

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their market value, and not at the option of taxing bodies and the corporations themselves. In the following cases legislation was declared invalid by the courts of the respective states: Vermont, a law requiring dealers from outside the state to take out licenses before doing business (May 14); Delaware, an act taxing interest-bearing investments (May 16); New York, a law forbidding "ticket scalping" (July 23); and New Jersey, an act allowing the governor to rearrange the wards of cities (September 20).

MUNICIPAL AFFAIRS. — The continued activity of the Committee of Fifteen in **New York** (see last RECORD, p. 378), supplemented by that of various organizations for a similar purpose, has brought about the conviction or indictment of several prominent police officials, on charges of bribery, oppression and neglect of duty. The work of reform, furthermore, was assured by the result of the elections of November 5. The contest centered about the mayoralty and the position of district attorney in New York county. A fusion of Republicans and several independent organizations, notably the Citizens' Union, elected as mayor Seth Low, the former president of Columbia University, and as district attorney Justice William T. Jerome, who has been especially identified with the movement against corruption. The fusionists also obtained a majority of the municipal offices. — Of interest, in view of the strike mentioned below, was the election of the labor candidate for mayor in San Francisco by a combination of the labor unions and those citizens who were dissatisfied with "machine rule." — The adoption of several amendments to the charter, at a special election October 22, has inaugurated an extensive **municipal reform in St. Louis.** These amendments facilitate business in the municipal assembly, provide for the raising of revenue to meet the cost of a series of public improvements and forbid the alienation of the city waterworks. — Basing its decision on the ground that municipal corporations as agents of the state have no vested rights whatsoever, the supreme court of Pennsylvania, May 27, affirmed the constitutionality of the "ripper acts" (see last RECORD, p. 379).

LABOR AND CAPITAL. — Of the three noteworthy events to be chronicled under this head, **the strike of the steel workers** attracted the greatest amount of public attention. The cause of the strike was the refusal of three constituent companies of the United States Steel Corporation to revise a wage scale that in its application would compel the employees in certain non-union plants to join the steel workers' union, or Amalgamated Association, as it is called. The strike lasted from August 12 to September 15 and was an absolute failure. The rather apathetic attitude of many of the steel workers themselves and the alienation of public sentiment produced by the deliberate breach of contract on the part of the Amalgamated Association, as well as by the conduct of the mayor of McKeesport, Pennsylvania, the centre of the strike, in proclaiming his determination practically to uphold the illegal acts of strikers, led to the acceptance of terms considerably less favorable than those originally

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proposed by the manufacturers. The terms comprised the recognition of all mills as non-union which the manufacturers had kept in operation during the course of the strike, whereas, on the other hand, the union should retain only such mills as it had succeeded in closing. Moreover, the practice of fixing a wage scale annually was abolished, and henceforth the scale will be continuous until terminated by either side at ninety days' notice. Except for a few outbreaks at McKeesport and Pittsburgh, the strike was conducted in an orderly manner. — The same cannot be said of two other strikes. The unwillingness of a street railroad company in Albany to concede the demands of its employees caused a strike attended with so much rioting that, on May 14, the militia had to be called out. In an attempt of the soldiers to disperse a mob two persons not concerned in the disturbance were fatally shot. A few days later the strike was settled on the basis of mutual concessions. — The other strike was that of an organization of teamsters, stevedores and longshoremen in San Francisco who objected to the employment of non-union men. Several thousand cases of assault and two of mortal injuries occurred before the strike ended, October 2, in a practical victory for the employers.

LYNCH LAW AND RACE RIOTS. — No less than fifty-nine incidents under this head have come to the notice of the compiler. This number included forty-four negroes, of whom two were women, eight American whites, three half-breed Indians, two Italians and a Chinaman. Of the eighteen states and territories that witnessed such spectacles, Mississippi comes first with thirteen, and California next with six. Among the alleged causes of the crimes rape and murder as usual predominated. Two non-union men, however, were lynched by strikers in South Carolina merely because they ventured to work. Nine of the victims were burned at the stake. In Pierce City, Missouri, August 20, after the lynching of a negro, a mob looted the hardware stores and broke into the armory of the militia for weapons with which to drive all negroes out of the town. It then proceeded to burn down their houses. Similarly, in Somerville, Texas, September 24, a fierce race riot arose over the refusal of a railroad company to discharge a negro brakeman. Before troops could quell the disturbance two white men and a negro had perished. A riot of still more serious proportions occurred in Balltown, Louisiana, October 27, during the progress of a negro camp meeting. The blacks were greatly embittered over the burning of one of their number at the stake a short time before; hence, when a constable and posse tried to close up a saloon in the neighborhood, a melee ensued, in which two whites and thirteen negroes, including three women and a child, lost their lives. — As against the manifestations of illegal force some instances of lawful resistance are to be recorded. In Alabama, a sheriff's posse repulsed a mob that was bent on lynching a negro already condemned to death for criminal assault, killing one of the rioters and wounding two others. In the same state, for the first time in its history, a grand jury indicted ten men and a trial jury subsequently convicted one

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of them of murder in the first degree, for the lynching of a negro. Three men, also, were indicted by a grand jury in California for participation in the lawless killing of the half-breeds mentioned above. The supreme court of Ohio, furthermore, sustained the constitutionality of an act rendering a county liable in pecuniary damages for failure to stop a lynching. — In South Carolina, in connection with the so-called "slavery contract system" (see last RECORD, p. 379), a jury acquitted a planter charged with assault and battery. The testimony of the negro convicts themselves showed that they had signed contracts by which they agreed to undergo whipping as a punishment.

II. FOREIGN NATIONS.

GREAT BRITAIN AND IRELAND. — Of the measures that had been proposed or had been considered in **Parliament** at the close of the last RECORD (pp. 381–382), those concerning the budget, the civil list, the demise of the crown, the regulation of factories and workshops, and the authorization of land sales in Ireland were passed without much difficulty. The same can be said of bills prohibiting the sale of liquor to minors, and permitting the exercise of discretion in ascertaining the age at which it may be lawful for children attending school to obtain employment (applicable to Scotland only). A proposition to modify the declaration contained in the Bill of Rights against Roman Catholic practices (see last RECORD, p. 380) failed in the House of Commons, although it passed the House of Lords. Two projects of imperial interest obtained sanction. One of them enables the king so to alter his title as to recognize more fittingly his sovereignty over the "dominions beyond the seas." This was rendered effective by royal proclamation, November 4. The other, passed in the face of an unusually active resistance from the Irish members, authorized the imperial government to join the Dominion of Canada and the Commonwealth of Australia in the construction of a Pacific cable. Only the measures relating to the army and to education called forth protracted discussion. The opposition to the first (*cf.* last RECORD, p. 381) rested upon the assertion that it did not satisfy the "special wants of the Empire," and would "largely increase the burdens of the nation without adding substantially to its military strength." In particular, it was urged that the scheme of forming a large body of troops for foreign service might draw Great Britain into continental complications; also, that the arrangements did not recognize the position of the navy as the real defense of the United Kingdom. The huge majority, however, at the disposal of the government in the House of Commons, insured the adoption of the project, May 16, by a vote of 305 to 163. — **The contest over the educational question** was occasioned by a judicial decision — the "Cockerton judgment" — which had declared illegal the practice of school boards in maintaining certain secondary schools. The disinclination of many

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Conservatives to promote secondary education among the people manifested itself, at first, in an unsuccessful effort of the Ministry to drive through Parliament a comprehensive measure, transferring the control of such education from the school boards to the local authorities. A tentative plan was then substituted to meet the objections raised by the "Cockerton judgment." This left the temporary continuance of the schools in question to the discretion of the local authorities. Despite a vigorous opposition to what was denounced as an encroachment on the powers of the school boards, frequent applications of the closure secured the passage of the measure. — Dissatisfaction with the conduct of the war in South Africa has been manifested in a number of ways and has produced considerable hostility to the general policy of the government in military matters. This was seen in connection with the plan for reorganizing the army, and was intensified by reports of great mortality, chiefly among children, in the concentration camps of South Africa (see p. 757), as well as by the complaints of Lord Kitchener against the inefficiency of recent recruits who could neither "ride nor shoot." The feeling became especially pronounced when, in September, General Sir Redvers Buller, whose campaign on the Natal frontier at the opening of the Boer war had been far from brilliant, was named for the command of an army corps. The opposition to this was so strong, especially among the supporters of the government, that the appointment was revoked.

THE BRITISH COLONIES AND INDIA. — The topic of prime importance under this head is the imperial aspect of **the labor and shipping question in Australia.** This question, which involves the first test of the commonwealth constitution, was raised by the introduction into the federal parliament of certain bills relating to immigration and the postal system. Along with stringent provisions against the physically and morally incompetent, the first measure prohibited the immigration also of persons unable to write fifty words in the English language. This linguistic test, however, was subsequently changed to a similar knowledge of "any European language." After a futile attempt to exclude all Asiatics and Africans, as such, the labor party, which holds the balance of power in both houses of the federal legislature, managed to secure the acceptance of an amendment forbidding the entry of all persons under contract for manual labor. In this form the bill passed the House of Representatives. At the same time that body began the consideration of a measure applying a similar prohibition after a given date to Pacific islanders. In the postal bill the noteworthy clause adopted by both houses, again at the behest of the labor members, was an amendment confining the grant of mail contracts to vessels manned wholly by white crews. A third measure, extending the powers of a practically irresponsible interstate commerce commission to the regulation of foreign, as well as domestic, shipping was eventually withdrawn. **The financial situation of the Commonwealth** was also a matter of importance. In the first budget statement, made early in October, the

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federal treasurer estimated the amount of revenue for the current year at £10,339,750, of which £8,000,000 would be derived from customs and excise. The amount of expenditure, in addition to the amount required by the constitution to be handed over to the states, he reckoned at £3,024,106. With a few exceptions, the duties of the tariff bill framed to meet these estimates averaged thirty per cent. Two notable features of the tariff are the bonuses granted to new manufactures of iron and a liberal rebate in the excise tax on sugar produced entirely by white labor. — In contrast to the attitude of Australia regarding the entry of alien laborers, the government of the Dominion of **Canada** disallowed acts of the legislature of British Columbia antagonistic to the immigration and employment of Japanese. The legislative output of the Dominion itself included the subvention of certain steamships, railways and lead-smelting works and the imposition of an export duty on wood pulp. — After protracted negotiations between the government of **Newfoundland** and the contractor Reid, whose party sustained defeat at the elections last year (see RECORD for December, 1900, p. 756), an agreement was reached in July, regarding the operation of various public utilities. In return for stated sums, the government regains its ownership of the railway and the telegraphs and of several million acres of land, whereas the contractor obtains the right to work the railway for a term of years. The colonial legislature then ratified the arrangement.

FRANCE. — The chief subject of political note in this country has been **the adoption and enforcement of the associations act.** After an able speech by the prime minister, M. Waldeck-Rousseau, in which he strongly maintained that the sole design of the measure was to offset the undue influence of the religious orders upon secular affairs, the Senate, June 22, by a vote of 173 to 99, approved the bill as it came from the Chamber of Deputies, with a few amendments that did not change its essential character. Of these the most important made provision for the members of a dissolved order "who have no sure and regular means of existence." The Chamber of Deputies readily accepted the amendments, and by a vote of 313 to 249 the bill became law, June 28. As to its enforcement, a ministerial ordinance issued shortly afterward required of all religious orders not only their submission to the jurisdiction of the bishop in whose diocese the chief seat of the order is located, and the presentation of copies of their statutes approved by that prelate, but also a complete list of members and an inventory of their property and resources. Within the three months allowed for the purpose, somewhat more than half of the 16,468 religious establishments in France applied for authorization under these conditions. The remainder, including the Jesuits, Benedictines, Carmelites and a large percentage of the Carthusians and Dominicans, have broken up their communities and migrated to neighboring countries, or scattered their members among friendly families. — There has been apparent a steady growth of **the financial deficit** since the beginning

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of the year. The estimates in the budget for the coming year revealed an excess that has already reached 50,000,000 francs in expenditure over revenue; and, in October, the annual report of the railroads showed a decrease in receipts of 54,000,000 francs, which deficiency the state has been requested to make good, in accordance with the terms of the guarantee. — An echo of the Dreyfus affair is to be discerned in a decree of the minister of war, issued in May, allowing appeals to be carried to the court of cassation from military tribunals in time of peace, and mitigating the conditions of punishment.

GERMANY. — On many occasions in the past public concern has been directed to **the legislative incapacity of the Reichstag** due to the absence of a quorum. In order, therefore, to insure regularity of attendance at its sessions, the Reichstag has approved an amendment to the imperial constitution, providing for the allowance to members of travelling expenses and a per diem compensation. Before its prorogation, also, May 15, the Reichstag passed acts strengthening the control of the state over insurance companies, providing for accident insurance in the case of soldiers and civil functionaries, elaborating a system of military pensions after death or disablement in war, and altering the present law in reference to industrial courts, by giving to their decisions more of a compulsory character. — With the intention of disarming the agrarian opposition to the emperor's canal project, as intimated in the last RECORD (p. 384), the tentative **draft of a new tariff** was issued July 26. Heavily increased duties on agricultural products in particular, a closer specification of taxable commodities and provisions for minimum rates on importations of grain, below which the government may not go in the conclusion of commercial treaties, constitute the chief features of the scheme. The danger to which these regulations, especially that of minimum duties on grain, subject the treaties in question evoked sharp criticism and condemnation among the commercial and industrial circles of the empire.

AUSTRIA-HUNGARY. — In view of the existing commercial and industrial depression, the attractive economic program that Dr. von Koerber, the prime minister, has made the chief factor in his policy of conciliation produced a **cessation of party struggles in the Reichsrath** for the first time in four years. From the resultant coöperation a comparatively large amount of legislative business was transacted. The public usefulness of the projects comprised in the program caused their speedy acceptance by huge majorities. The first authorized the expenditure of 487,000,000 kronen, to be raised by loan, for the extension and improvement of the railway system. The second provided for the construction of a series of canals to connect the Danube with several other large rivers, and for the canalization of these streams as well. The estimated cost was 500,000,000 kronen, to be raised similarly by a loan, but each section of the country affected by the improvements is to pay a pro-rata share. Success also attended a number of other measures, such as the provisional budget,

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the establishment of a nine-hour workday for coal miners, the abolition of certain irksome customs duties and the imposition of an excise on spirituous liquors. — The returns of the elections for the lower house of the Hungarian Diet, held early in October, indicated that the Liberal majority had been heavily reduced.

RUSSIA. — Consistently with his determination to effect an **improvement in the educational system** (see last RECORD, p. 386), the czar greatly softened, June 18, the regulations under which refractory students have been compelled to perform military service. In the same month the minister of public instruction issued a decree, insuring to the University of Kieff, the centre of the recent disturbances, practical autonomy in its educational administration and permitting its students to form scientific and athletic associations. While quiet was thus restored among the students, the unrest still prevalent among the laboring classes manifested itself during the latter part of May in serious strike riots near St. Petersburg. — A renewal of efforts to bring about **the national obliteration of Finland** is to be observed. In June the Finnish archives relating to the period 1809–25 were forcibly removed from Helsingfors to St. Petersburg, in order, it was said, to destroy the documentary evidence of the special privileges granted to Finland in 1809. The report, furthermore, of concessions to Finland in the matter of military service (see last RECORD, p. 386) proved to be erroneous. On July 11 the czar approved several edicts providing for the **amalgamation of the Finnish army with the Russian.** Not only will Finnish conscripts be liable to service in Russian regiments, but the Finnish staff organization is abolished, and promotion will depend upon a thorough knowledge of the Russian language. The civil administration of the Finnish army was likewise transferred from the Finnish senate to the Russian minister of war, and that functionary will henceforth fix the annual contingent to be recruited in Finland. While the term of military service, also, is reduced from five years, as originally intended, to three, the concession will be useful only to Russians who are thus tempted to colonize Finland. With the exception of four members, who were summarily dismissed from office for their objections, the Finnish senate agreed to promulgate the edicts. At the same time it requested the czar for an assurance concerning the maintenance of the political institutions of Finland. The reply of the secretary of state for Finland declared that, "as to his Majesty's good intentions in this respect, his faithful subjects cannot be in doubt"; but that the "disquieting apprehensions" circulated among the Finlanders pointed to the "necessity of securing public order by means of administrative measures." Many Lutheran clergymen, however, declined to read the law from their pulpits in accordance with ancient usage regarding promulgation, and in places where it was read the congregation left the church in a body. Nearly half a million persons, furthermore, signed a petition to the czar against this "imperious command" which would involve in its enforcement the "destruction of the

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national army of Finland." Such an act, ran the petition, was incompatible with the political position "irrevocably guaranteed" to the grand-duchy in 1809.

ITALY. — After approving the budget, which showed an estimated surplus of 30,000,000 lire in the revenues of the current year, the Chamber of Deputies closed its session June 29. — Owing to the impracticable character of certain features in the program of tax reform outlined in the last RECORD (p. 386), Sig. Wollemborg, the minister of finance, resigned his office late in July. He was succeeded by Sig. Carcano, a member of the first Pelloux cabinet in 1898. — On August 11 Francesco Crispi died.

SPAIN. — The long-standing unrest, due to industrial, financial, religious and political causes, was operative in producing a **series of riotous outbreaks**, apparently instigated to some extent by Carlists. The story of each is the same: the violence of a mob against persons and property, its suppression by the police and the military after more or less bloodshed, and the imposition of martial law until order could be restored. The disturbances in Barcelona, caused originally by a strike of street railway employees, were aggravated by anarchists, socialists and other malcontents who wished to ventilate their particular grievances. In Corunna and Seville the rioters forced an entire suspension of business for several days. A certain amount of anti-clerical sentiment, furthermore, revealed itself whenever possible. The most serious manifestations of hostility to religious bodies occurred in Madrid, Pampeluna, Valencia and Saragossa. In the city last mentioned thirteen persons were killed and thirty-three wounded during the course of an attack on a religious procession. The government then forbade, for the present, the performance of such ceremonies. — The result of **the elections to the Cortes**, May 19, showed the usual victory for the government, the number of its supporters in the lower house being fixed at 238, as against 163 in opposition. In various localities the elections were attended with collisions between rioters and police, whereby several lives were lost. — **The royal speech** to the new Cortes, June 11, the last which the queen regent will deliver before the king becomes of age, announced an extensive program of financial, electoral, municipal and religious reform, as well as a scheme of naval and military reorganization. As to the finances, the government purposed to introduce measures for the restoration of specie payments and for completing the conversion of the bonded debt into a permanent form. In respect to the electoral question and its relation to municipal improvement, the speech recognized the necessity of "guaranteeing the independence of electors" and declared that the municipalities must cease to participate, as such, in national politics. A promise was made, however, that although their activity will be confined to matters of local import, their autonomy in this regard will be increased. Finally, in view of the anti-clerical agitation (see last RECORD, pp. 386–387), it was stated that a bill would be broached with the intent of defining more stringently the terms for the authorization of religious communities. By way of anticipation, the

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government issued a decree, late in September, fixing a period of six months within which time all religious associations, except those directly sanctioned by the Concordat, must comply with the formalities of the existing law regarding authorization.

MINOR EUROPEAN STATES. — Two important legislative acts of the Scandinavian states are to be recorded. Of these one provided for the **establishment of universal military service in Sweden**, and for a comprehensive reorganization of the army and navy of that country, at a cost of nearly double the amount spent hitherto for the purpose. The other authorized the **introduction of woman suffrage in Norway**, by conferring the right to vote in purely municipal affairs on women taxpayers. — A coalition of the so-called "anti-revolutionist" Protestants with the Catholics accomplished the **overthrow of the Liberal party in Holland**, which has controlled the government for about fifty years. The fall of the Liberals is ascribed to the dissension in that party over the question of universal suffrage. A concurrent cause was the unpopularity of certain portions of the bills which the Liberal ministry carried through the legislature at the close of the last session. These measures reorganized the army, by enlarging the number of persons liable to serve and lessening the term of service, provided for improvements in the habitations of the working classes and intensified the compulsory character of elementary education. The resignation of the de Beaufort cabinet followed the returns from the elections. The queen, thereupon, intrusted to Dr. Kuyper, professor of theology at the Calvinist University of Amsterdam, the formation of a clerical ministry, three members of which are Catholics. — A fact of great constitutional significance was the **royal recognition of ministerial responsibility to the popular branch of the legislature in Denmark**. The issue of the elections in June, at which the Radicals were, as usual, victorious, caused the king finally to abandon his practice for thirty years of appointing a Conservative cabinet, whatever might be the political complexion of the majority in the lower house (Folkething). A strongly Radical ministry was then established late in July under Professor Deuntzer of the University of Copenhagen. — After considerable discussion on **the question of annexing the Congo Free State to Belgium** as provided for in the stipulations of 1890, it was decided by the parliament of the latter country, early in August, to postpone such annexation until, in the opinion of the king as its administrator, the economic situation of the dependency should warrant the act. Early in August an old age pensions law came into operation in Belgium, and 175,000 persons over sixty-five years of age made application for the yearly pension of sixty-five francs. — **Outrages along the Turkish frontiers** by Albanians and other lawless subjects of the sultan, including Turkish soldiers, and the clash of Turkish military outposts with those of Bulgaria and Montenegro have been rather more frequent than usual. Aside from religious fanaticism and the ordinary inclinations to plunder, the motives for these border collisions are variously attributed to the oppression

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of Turkish officials, the desire to seize the lands of Servian peasant proprietors and also to the intrigues of the Macedonian Committee and kindred organizations (see last RECORD, p. 387). One incident of these disturbed conditions in the Turkish provinces was the act of a party of brigands in seizing and holding for ransom Miss Stone, an American missionary. The government of the United States supplemented private efforts to raise the amount of the ransom by vigorous representations on the subject to Turkey and Bulgaria. Protests of the Servian minister and also of the envoys of the great powers, notably Russia, procured from the sultan a promise to investigate the circumstances, and eventually brought about the removal of some of the worst official offenders. — **A serious dispute between France and Turkey** came into prominence early in August. Among other things, it concerned the claims, pending for three years, of certain French bankers to reimbursement for moneys advanced to aid in the construction of railroads, and those also of a French company to the control of the docks at Constantinople, which it had purchased from the Ottoman government. On the pretext that the facilities for landing passengers were inadequate, the Porte endeavored to redeem its concession without offering a satisfactory compensation, and, on the refusal of the company to accept the proffered terms, proceeded seriously to interfere with its business. The shifty conduct of the sultan in the subsequent negotiations with France brought on a suspension of diplomatic relations August 26, through the withdrawal of the French envoy. Decrees issued by the Porte, purporting to meet the demands of the French claimants, lacked material guaranties for fulfillment, and, early in November, France decided to make a naval demonstration in Turkish waters. The seizure of a port on the island of Mitylene caused the sultan to comply promptly with the French terms.

THE ORIENT. — The chief topic of the negotiations among the foreign ministers at Peking has been **the method of paying the Chinese indemnity.** After China had admitted its liability, May 29, for the amount demanded, *viz.*, 450,000,000 taels, differences of opinion arose chiefly with reference to the form of guaranteeing the necessary bonds and to the resources of China to be employed for their redemption. The Russian, French and Japanese envoys suggested that the bonds be guaranteed jointly by the powers. Great Britain and the United States, however, proposed that China issue bonds to the several powers for their respective shares, each power thus practically guaranteeing its own. Japan, moreover, asked for a proportionate increase in its allotted indemnity to cover the loss proceeding from its inability to dispose of the bonds at par; whereas Russia insisted upon the creation of a reserve security, by an increase in the maritime import duties beyond the point which a general agreement of the ministers representing the eight other powers had already fixed. As soon as the first matter of contention had been settled by the yielding of Russia, France and Japan, Russia alone opposed the individual request of Japan;

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while Great Britain alone objected to the Russian view in reference to the import duties. The deadlock was terminated in July by the withdrawal of both Japan and Russia from their respective stands. Owing, however, to the slowness with which imperial authorization of certain measures was obtained, a formal **acceptance of the complete protocol** by the Chinese plenipotentiaries did not take place until September 7. The document contained the terms of the preliminary agreement of January 12 (see last RECORD, pp. 388–390), stipulations concerning the payment of the indemnity, and the substance of a number of imperial edicts. The stipulations provided for the payment of 450,000,000 taels, with interest at four per cent, the amortization of the entire amount to be complete by 1940. The revenues for the purpose were to be derived from increased tariff duties, the native customs and the salt tax. The augmentation of the tariff, however, was made conditional upon changing the duties from *ad valorem* into specific, upon a revision of the commercial treaties and upon the financial coöperation of China in effecting an improvement of the waterways at Shanghai and Tientsin. The execution of these arrrangements was intrusted to international commissions. An edict included in the protocol also deserves mention. This substituted for the former Tsung-li-Yamên a new foreign board, the "Wai-wu-pu," composed of five persons, of whom two understand foreign languages, and gave it precedence over all other ministries of state. — Closely connected with this adjustment of relations between China and the allied powers was the **fulfillment of the expiatory missions** to Germany and Japan, for the murder of their diplomatic representatives during the outbreak of the Boxers. On September 4, Prince Chun, brother of the Chinese emperor, expressed to Emperor William at Berlin, in person, the formal regrets of the Chinese government for the outrage; as did also on September 13 a high Chinese official to the Mikado at Yokohama. — Out of the number of **imperial reform edicts** published during the past six months a few may be cited in addition to those contained in the protocol. They practically iterate the ones issued in the course of the reform movement of 1898 (see RECORD for December, 1898, p. 775) and are attributable to the influence of the pro-foreign viceroys of Nanking and Wuchang. For example, they expedite official business by abolishing dilatory precedents and prohibit traffic in public offices. They also do away with the rice tribute and approximate the system of official examinations to European usages. Educational improvement is to be further inaugurated by the creation of a public-school organization and by the despatch of apt pupils abroad for study. — **Preparations for the return of the court to Peking** were begun shortly after the signing of the protocol. At that time the ministers fixed September 17 as the date for the formal evacuation of the capital by foreign troops, except the legation guards. So little importance, however, was attached to a slight recrudescence of the Boxer agitation, carried on by a so-called "Society of Allied Villagers," that the process of evacuation had commenced as early as May. Count

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von Waldersee, the commander-in-chief of the foreign forces, himself departed June 3. Simultaneously the sections of territory thus left were handed over to the Chinese officials, as was also Peking itself, on the proper day. The court finally started on its journey from Singan-fu October 6. — Li Hung Chang died on November 7. — A plan of **naval and military reorganization in Japan** was adopted in August, whereby the cabinet ministers for these branches of administration may be civilians, but the chief of the naval and military bureau must remain directly responsible to the emperor in strategical matters. — On October 1, upon the death of Abdurrahman, the Ameer of Afghanistan, his eldest son, Habibullah, quietly succeeded him.

AFRICA. — Various occurrences during the past six months seem to indicate that **the British struggle with the Boers**, which entered upon its third year October 10, is gradually becoming almost a warfare of extermination. The British have continued to capture prisoners and livestock, to lay waste the country and to concentrate the families of their antagonists in camps (see last RECORD, p. 391). On the other hand, the Boers have pursued their old guerilla tactics: avoiding open conflicts, "sniping," surprising small detachments and wrecking trains. From correspondence captured in May it became known that a serious divergence of opinion then prevailed among the Boer leaders as to the wisdom of prolonging the contest; but Mr. Krüger's declaration that "nothing short of independence" would be acceptable removed any prospect of peace. The British authorities have progressively increased the rigor of the treatment accorded to the Boers, and a culmination of severity was reached in a **drastic proclamation of Lord Kitchener** published August 7, at the suggestion of the government of Natal. It recited that, since the Boer republics had been annexed to Great Britain and since the Boers themselves could no longer carry on organized warfare, the British government had determined to end a state of things which was "aimlessly prolonging bloodshed and destruction." Accordingly it was announced that all leaders, civil and military, who should not have surrendered by September 15 would, when captured, be permanently banished from South Africa; and that the property of the rank and file, who should still be under arms at that date, would be confiscated as a reimbursement for the cost of maintaining their families in the camps of concentration. The threat was promptly put into execution, but **Boer retaliation** followed as quickly. It seems that the Boers had already decided to shoot all natives employed in the British service; now they replied to Lord Kitchener's manifesto by an appeal of their emissaries in Europe to the court of international arbitration at the Hague, and by a counter-proclamation of the burghers in the field, declaring all British officers outlaws and ordering every armed Englishman to be shot. Their retaliation, moreover, was not confined to documents. One of their raids into the Cape Colony reached the coast only sixty miles northwest of Cape Town and caused the whole of that colony again to be placed under martial

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law. Even the assistance of the navy was invoked. Another of these raids resulted in the capture of two guns and a squad of mounted infantry a few miles from Pretoria itself, the British headquarters. Also an expedition of 2000 men under Botha, the Boer commander-in-chief, made a desperate attack, September 26, upon two forts on the northern frontier of Zululand, with the ultimate design of invading Natal. After a fight lasting nineteen hours the Boers were driven back with a loss of 500. This was balanced, however, by two British reverses not far from the same region, in which the casualties numbered 440. — Among the few **measures of a civil character** were those which erected a municipal government in Johannesburg, established a judicial system for the Vaal River Colony at large, and mitigated the harshness of Boer laws still in force dealing with the natives. A proclamation, furthermore, issued July 1, validated all contracts for lands and mining rights in the former Boer republics, of which the war had prevented fulfillment. — **Elsewhere in Africa** successful expeditions were directed by the British against the so-called "Mad Mullah," who has headed for some time an insurrection of the Somalis (see last RECORD, p. 392), and against the rebellious ruler of Adamawa in northern Nigeria. Also, in order to protect British and native rights alike against looseness in the acquisition of mining concessions by Europeans, the protectorate of Ashanti was formally annexed to the Gold Coast Colony early in October. — It is reported that, by a convention framed in August, the sultan of Morocco renounced in favor of France his claims over the region of the Sahara already brought last year under French control (see RECORD for December, 1900, p. 768). In the same month the French government decided to create in its colonies of Guinea, Dahomey and the Ivory Coast a judicial system separate from the department of administration, except in the case of penal offenses committed by natives. — The sultan of Morocco announced his intention in September to introduce a number of reforms in administration. Among these were the regular payment of provincial officials and their consequent responsibility for the preservation of order, the improvement of prisons, the abolition of restrictions on the coasting trade and the replacement of certain land taxes by other impositions that would affect Europeans as well as Moroccans. A demand of Spain, furthermore, supported by a joint vote of the other European powers, for the release of two Spanish children kidnapped last May by Kabyle tribesmen, and the payment of an indemnity besides, was satisfied, October 31, so far as the latter condition was concerned.

LATIN AMERICA. — The revolutionary ferment long brewing in the northern part of South America has developed into a **warlike imbroglio between Venezuela and Colombia.** Late in July, an insurrectionary force of Venezuelan Conservatives, acting more or less in conjunction, it is said, with the Conservative government of Colombia, crossed the frontier of Venezuela. They were repulsed, and Venezuela declared martial law. Thereupon the Colombian minister left Caracas, August 12, and intrusted

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to the minister of the United States the care of Colombian interests. The withdrawal of the exequaturs of Colombian consuls soon followed. The United States immediately tendered its good offices for the adjustment of the dispute. Colombia alone accepted the offer. Since, however, the president of Venezuela chose to regard the attack of the insurgents as the work of the Colombian government, and not of the Colombian people, many of whom are still in revolt against that government, he issued no formal declaration of war. From the obscure and greatly conflicting reports it would appear that Venezuela, coöperating with the Colombian revolutionists, began hostilities early in September by an attack on Rio Hacha, but met with total defeat. — The internal circumstances of both states were quite as disordered as their foreign relations. In Venezuela the unsettled condition of the customs greatly lessened the public revenues, and the discontent under a regulation that exacted military service of workmen from fourteen to sixty years of age completely filled the prisons. In such financial straits, on the other hand, was the government of Colombia, that it suspended payment of all public obligations, other than those for military supplies, forced the grant of loans and doubled the import duties. Under these circumstances the Pan-American Congress, which opened its second session at Mexico, October 22, drafted a resolution requesting the belligerent states to secure "an equitable and fraternal agreement of their present difficulties" by pacific means. — Quite in contrast to this state of things is the news of the conclusion of a series of treaties last February, but only recently made known, among the states of Central America, authorizing a resort to arbitration for the settlement of future differences. — Certain financial and military legislation in **the Argentine Republic** merits a passing notice. A proposal of the government to consolidate the national debt, by taking over the debts of the individual states, aroused so much resistance in Buenos Ayres that the city was placed for some time under martial law. Eventually the scheme had to be withdrawn. In October, also, the Argentine congress approved a bill establishing the conscript system of military service, with the privilege of purchasing exemption at a comparatively cheap rate. — Diplomatic relations between Mexico and Austria, which have been broken off since 1867, were formally resumed in June. Venezuela, however, rejected the terms offered by France for a similar purpose, because it would not submit to arbitration claims that had originated in previous revolutions.

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THE untimely death of Richmond Mayo-Smith, which deprives American economic science of one of its leading representatives, also removes from our editorial board a member who was actively interested in the direction and maintenance of the POLITICAL SCIENCE QUARTERLY from its establishment, sixteen years ago, to the present time. His visible labors in its behalf — his frequent articles and his numerous reviews of new publications — are familiar to our readers. These contributions aided not only in establishing the reputation of the QUARTERLY, but in determining its character and fixing its standard. His unseen work, however, was no less important, and its influence went deeper. The laborious and thankless task of examining hundreds of contributions was discharged by Professor Mayo-Smith with that conscientiousness which characterized all his work and in that judicial temper which he possessed in so high a degree. The qualities which he required in contributions, and which he exacted most rigorously in his own writings, were intellectual honesty, a scientific method, clearness of thought and precision of statement. He desired also, though he did not demand, a practical aim, and he was disposed to prefer articles that had relation to existing problems. What he neither demanded nor desired was that the views of contributors should be in harmony with his own views or with the theories prevalent among economists or with public opinion. He came of New England stock; and with the New England conscience which he inherited from six generations of ministers of the gospel, he possessed that passion for freedom of thought which inspired the Independent movement in England and found its most eloquent expression in John Milton's *Speech for the Liberty of Unlicensed Printing*. With that great Independent he held, regarding Truth, that "if her waters flow not in a perpetual progression, they sicken into a muddy pool of conformity and tradition." What the QUARTERLY is, it is in large degree through his influence; and in its further development the principles for which he stood, no less than the memory of the man himself, must continue to guide the colleagues who survive him.

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